

DEPARTMENT OF THE INTERIOR

FRANKLIN K. LANE, SECRETARY

BUREAU OF MINES

VAN. H. MANNING, DIRECTOR

ILLINOIS MINING STATUTES
ANNOTATED

BY

J. W. THOMPSON

INCLUDING ALL ILLINOIS MINING LAWS



WASHINGTON
GOVERNMENT PRINTING OFFICE

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ILLINOIS MINING STATUTES ANNOTATED.

By J. W. THOMPSON.

[Mining subjects arranged alphabetically.]

ACTIONS FOR WRONGFUL DEATH.

See Mining operations, page 128.

BURYING DEAD MINERS.

BURYING BODIES OF DEAD MINERS.

REVISED STATUTES (HURD) 1874, P. 283.

SEC. 22. LIABILITY OF RAILROADS, ETC., FOR BURIAL EXPENSES.—When any railroad company, stage or any steamboat, propeller, or other vessel engaged in whole or in part in carrying passengers for hire, brings the dead body of any person into this State, or any person dies upon any railroad car or in such stage, steamboat, propeller or other vessel in this State, or any person is killed by cars, or machinery of any railroad company or by accident thereto or by accident to or upon any such stage, steamboat, propeller, or other vessel, or by accident to or in or about any mine, mill or manufactory,* the company or person owning or operating such cars, machinery, stage, steamboat, propeller, or other vessel, mine, mill or manufactory shall be liable to pay the expenses of the coroner's inquest upon and burial of the deceased and the same may be recovered in the name of the County in any court of competent jurisdiction.

NOTE.—The original Act of February 15, 1855 (Laws 1855, p. 170), makes no reference to the dead bodies of persons killed "by accident to, in or about any mine."

AMENDATORY ACT.

LAWS 1917, P. 341.

JUNE 26, 1917.

REVISED STATUTES (HURD) 1917, P. 692.

NOTE.—This Act amends the above section requiring the burying of the bodies of dead miners, but the only substantial change is in the following words, to be inserted, at the *:

* and such death shall have been caused by the wrongful act, neglect or default of any such railroad company, stage, steamboat, propeller or other vessel owner, or of the owner of any mine, mill or manufactory.

CONSTITUTION.

LEGISLATION FOR SAFETY OF MINERS.

CONSTITUTION OF 1870, ARTICLE 4, SEC. 29.

ARTICLE 4. * * *

SEC. 29. It shall be the duty of the General Assembly to pass such laws as may be necessary for the protection of operative miners, by providing for ventilation when the same may be required, and the construction of escapement shafts, or such other appliances as may secure safety in all coal mines, and to provide for the enforcement of said laws by such penalties and punishments as may be deemed proper.

* * * * *

ANNOTATIONS.^a

1. CONSTITUTION REQUIRES LAWS PROTECTING MINERS.
2. CONSTRUCTION OF CONSTITUTIONAL PROVISION—CLASSIFICATION.
3. STATUTES COMPLYING WITH REQUIREMENT—CONSTRUCTION.

1. CONSTITUTION REQUIRES LAWS PROTECTING MINERS.

The mandatory provision of this section requires the general assembly to give coal operators special legislative protection against the hazards and perils peculiar to the mining business.

Kellyville Coal Co. v. Strine, 217 Ill. 516;
Cook v. Big Muddy-Carterville Mining Co., 249 Ill. 41;
Rogers v. St. Louis-Carterville Coal Co., 254 Ill. 104 p. 110.

The constitution requires the general assembly to pass such laws as may be necessary for the protection of operative miners and a statute passed pursuant to such constitutional provision should be given meaning in harmony with the purpose where the language used will admit of such construction.

Robertson v. Donk Bros. Coal & Coke Co., 143 Ill. App. 391 p. 394.

The constitution authorizes special legislation as to mining and makes it the duty of the general assembly to provide such laws as may be necessary for the protection of miners and such appliances as may secure safety in coal mines, and courts are not required to look to other occupations and determine whether such law did or did not affect such occupations, or whether it was or was not a danger that was common to other occupations. The purpose of this amendment was to place the mining laws in a class by themselves.

Mengelkamp v. Consolidated Coal Co., 173 Ill. App. 370 p. 376.

The constitutional provision requiring legislative enactment for the health and safety of operative miners was deemed advisable by reason of their being exposed in their occupation to extraordinary hazards and perils different from other classes of laborers.

Kellyville Coal Co. v. Strine, 217 Ill. 516;
Cook v. Big Muddy-Carterville Min. Co., 249 Ill. 41;
Mygatt v. Southern Coal & Min. Co., 180 Ill. App. 150 p. 158.

^a The references to all cases in the Reporter system are shown in the Table of Cases (pp —) only.

This section enjoins legislation in the interest of miners but this is solely as respects their personal safety and reference to enactments of police regulations to promote that end. It recognizes that the business is dangerous to life and health, but it nowhere intimates that there is anything in the business which disqualifies parties engaged therein from contracting as they choose in regard to such matters, or that gives the public a use in such business.

Millett v. People, 117 Ill. 294 p. 304.

The constitution requires the general assembly to pass laws for the protection of operative miners by providing for ventilation and the construction of escapement shafts or other appliances as may secure safety in coal mines.

Smith v. Moffat Coal Co., 151 Ill. App. 362 p. 366.

Under this constitutional requirement the legislature enacted the law of 1899 for the protection of operative coal miners, which was amended in 1907 and again amended in 1911.

Mygatt v. Southern Coal & Min. Co., 180 Ill. App. 150 p. 158.

2. CONSTRUCTION OF CONSTITUTIONAL PROVISION—CLASSIFICATION.

Section 29 of Article IV of the constitution makes it the duty of the general assembly to pass such laws as may be necessary for the protection of operative miners, by providing for ventilation, the construction of escapement shafts and such other appliances as may make secure safety in coal mines. This provision requires the legislature to pass such laws as may be necessary for the purposes specified, and leaves to that body the determination of the policy of the state as to what legislation is necessary to conform to its requirements.

Chicago etc. Coal Co. v. People, 181 Ill. 270 p. 272;

Carterville Coal Co. v. Abbott, 181 Ill. 495 p. 500;

Consolidated Coal Co. v. People, 186 Ill. 134 p. 138;

Kellyville Coal Co. v. Strine, 217 Ill. 516 p. 525.

This section places coal miners in a class by themselves and requires the general assembly to pass such laws as may be necessary for their protection by providing for ventilation when the same may be required and the construction of escapement shafts or other necessary appliances. The word "appliances" is very broad and includes anything applied or used as a means to an end, and this provision includes all those things which will secure safety in coal mines and is intended to secure the safety of those persons engaged in a perilous occupation and it should not receive a narrow construction, and it must be held to include all the physical conditions existing in the mine.

Cook v. Big Muddy-Carterville Min. Co., 249 Ill. 41, p. 47.

See *Mertens v. Southern Coal Co.*, 235 Ill. 540;

Dunham v. Black Diamond Coal Co., 239 Ill. 457;

Kellyville Coal Co. v. Strine, 217 Ill. 516;

Cook v. Big Muddy-Carterville Mining Co., 249 Ill. 41;

Rogers v. St. Louis-Carterville Min. Co., 254 Ill. 104, p. 110.

3. STATUTES COMPLYING WITH REQUIREMENT—CONSTRUCTION.

The statutes passed in obedience to this constitutional mandate should be liberally construed towards the accomplishment of its purpose.

Donk Bros. Coal & Coke Co. v. Lucas, 127 Ill. App. 61, p. 65.

See *Durkin v. Kingston Coal Co.*, 171 Pa. 193;

Fulton v. Wilmington Star Min. Co., 133 Federal 193;

Williams v. Thacker Coal Co., 44 W. Va. 599.

The mining statutes were passed in obedience to the mandate of section 29, article 4 of the constitution which recognized the dangerous character of the occupation of miners and required legislation for their protection and because of this the mining act passed in obedience to this mandate of the constitution is to be liberally construed.

Pate v. Gus Blair-Big Muddy Coal Co., 252 Ill. 190, p. 203;
Mengelkamp v. Consolidated Coal Co., 173 Ill. App. 370, p. 376.

RAILROADS TO COAL BANKS.

CONSTITUTION 1870, ARTICLE 13, SEC. 5.

ARTICLE 13. Warehouses * * *

SEC. 5. * * * and all railroad companies shall permit connections to be made with their track, so that any consignee, and any public warehouse, coal bank, or coal yard, may be reached by the cars on said railroad.

ANNOTATIONS.

CONSTITUTIONALITY OF SECTION.

This section requiring railroad companies to permit connections to be made with their tracks so that coal banks or coal yards may be reached is constitutional and valid for the reason that similar provisions apply to other lines of business and the provision affects the duty of the carrier alone as no duty or obligation is put on the owner of the coal bank or coal yard.

Millett v. People, 117 Ill. 294, p. 304.

EMINENT DOMAIN.

DRAINAGE OF MINES.

LAWS 1867, P. 39 (EXTRA SESSION).

FEBRUARY 21, 1867.

AN ACT relative to mining for lead ore or other minerals.

SECTION 1. Be it enacted, etc., That every corporation, company, association of persons or other party now engaged in mining for lead ore or other minerals, or which may hereafter be engaged in operating or mining for lead ore or other minerals, whenever it is necessary for the purpose of prosecuting such mining enterprise to conduct or convey the water from any shaft, levels or land occupied by them for mining purposes, shall have the right and privilege of conducting and conveying the water therefrom, upon, over or below the surface of the lands of any owner or owners of lands adjoining or adjacent to the grounds so worked or to be used for mining purposes by such corporation, company, association of persons or other party, in pipes, ditches, water races or tunnels, and to deposit waste earth from their said mines, thereby doing as little damage or injury to the owner or owners of adjoining lands or the improvement thereon as the same will admit of, with the privilege of extending said pipes, ditches, water races or tunnels as far over adjacent lands as may be necessary to obtain a proper outlet for the water, upon complying with the provisions of this act.

SEC. 2. Whenever such corporation, company or other party can not agree with the owner or owners of such adjoining lands upon the amount of damages for the right and privilege of conveying the water from any shaft, level or mining land aforesaid, such corporation, company or association of persons, or other party, may apply to the judge of the county court of the county where the land is situated for the appointment of three commissioners, to assess such damage. The judge of said county court, upon such application being made, shall appoint three disinterested freeholders, residents of his county, to act as commissioners, who, after being duly sworn for that purpose, shall proceed to make an examination of all the lands necessary and proper to be used by said company, corporation, association of persons, or other property in conducting or conveying the water from such shaft, level or mineral lands, and for depositing waste earth, as aforesaid, and also for such lands as may be overflowed or liable to overflow by reason of erecting, constructing and maintaining such pipes, ditches, tunnels or the keeping up and maintaining water-races upon said lands, and make an award, in writing, in which they shall award to the owner or owners of such land or lands the amount of damages to which such owner or owners of said land or lands shall be entitled, by reason of use of lands for waste earth and for the erection, construction and maintaining such pipes, ditches, tunnels or water-race, or that may be erected and maintained for the purpose of conveying the water from the same.

SEC. 3. Said commissioners shall meet within thirty days from the time of their appointment to make their examination and award, by virtue of this act, and shall have power to adjourn, from time to time, not exceeding two adjournments in all; and the owner or owners of such land shall be notified to

appear before them, at the time and place of such meeting, and shall be entitled to be heard before said commissioners in regard to the amount of damages by them sustained or liable to be sustained in consequence of the erecting, making and maintaining of such pipes, ditches, tunnels or water-races, and depositing waste earth, as aforesaid. Such notice shall, at least six days before such meeting, be served personally or by leaving a copy thereof at the residence of the owner or owners of such land aforesaid: Provided, Such owner or owners reside in the county where said lands are situated; and in case such owner or owners are nonresidents of the county, then such notice shall be served upon their attorney or agent, if they have any in such county, and if there is no such agent or attorney in the county then such notice shall be published in a newspaper printed in said county for at least three weeks before the meeting of said commissioners.

SEC. 4. The decision and award of said commissioners shall be final, unless appealed from as provided for in this act; and the said award, together with due proof of the notice or notices upon the owner or owners of said land, or upon their attorney or agent, as provided for in this act, shall be filed in the office of the clerk of the circuit court of the county wherein the award is made, shall be prima facie evidence of the regularity of said proceedings, and at the next term of the circuit court of the proper county, upon motion made by any party interested therein, a judgment may be entered up and execution issued to the same effect and in the same manner as judgments are entered, executions issued upon actions of civil nature commenced and tried in the circuit court.

SEC. 5. Any corporation, company, association of persons, or other party considering themselves aggrieved by the award of said commissioners, may appeal therefrom, within twenty days from the time of filing said award, to the circuit court of the proper county, in the same manner as is provided by law for appeals from judgments of a justice of the peace. Said commissioners shall be entitled to receive two dollars per day, each, for their services as such commissioners, which shall be paid by such corporation, company or party.

SEC. 6. And it is hereby expressly provided, that the pipes, ditches, and water-races or tunnels laid, excavated or constructed by virtue of the provisions of this act, shall, under no circumstances, be used by the owners of the lands through which they may be laid or constructed or by any other person or persons, for any purpose whatsoever other than the drainage of the lands; and no person or persons whatsoever shall be authorized to enter the same, except for the purpose of repairing, altering, extending or otherwise improving the same, without the written consent of the parties interested first had and obtained.

SEC. 7. This act shall take effect and be in force from and after its passage.

DRAINS AND ROADS.

REVISED STATUTES (HURD) 1874, P. 709.

MARCH 24, 1874.

AN ACT To revise the law in relation to mines.

NOTE.—The Revised Statutes of 1874 were prepared by a Commission appointed by the Legislature, and were issued and known as Hurd's Revised Statutes.

SEC. 1.—MAKING DRAINS, ROADS OR RAILROADS—EMINENT DOMAIN.—Be it enacted, etc.: That whenever any mine or mining place shall be so situated that it can not be conveniently worked without a road or railroad thereto, or ditch to drain the same or to convey water thereto, and such road, railroad or ditch

shall necessarily pass over, through or under other land owned or occupied by others, the owner or operator of any such mine or mining place may enter upon such lands, and construct such road, railroad or ditch, upon complying with the law in relation to the exercise of the right of eminent domain.

PUBLIC AND PRIVATE WAYS—HORSE AND DUMMY RAILROAD.—And the commissioners of highways of any county under township organization, and the county board in counties not under township organization, may, when the public good requires, cause to be laid out and opened public highways, or private roads or cartways, from any coal mine to a public highway or to a railway, as the public good may require, in the same way as now is or may hereafter be provided by law for the laying out and opening of public highways or private roads or cartways, and may permit the owner, lessee or operator of any coal mine to lay down and operate a horse or dummy railway thereon, or upon any highway or private road or cartway now or hereafter laid out and opened for public or public and private use, but always in such a manner and way, and upon such place thereon, as to not unnecessarily interfere with ordinary public travel.

DRAINING COAL MINE.

LAWS 1877, P. 95.

MAY 16, 1877.

AN ACT To protect, by levee, lands subject to overflow and for draining wet or swamp land and coal mines.

SECTION 1. PETITION.—Be it enacted, etc.: That when any one or more owner or owners or occupants of any lands, or coal mines, in the State, shall desire to construct a ditch or drain or ditches across the lands of another or others, for agriculture, sanitary or mining purposes, or for all or any one of said purposes, and which tends to the benefit or advantage of the public, and no agreement or arrangement can be made between them and the owners or occupants of said land to make or establish the ditch or drain, the person or persons may then file a petition in the circuit or county court of the county in which said ditch or ditches, drain or drains, shall be proposed to be constructed, setting forth the necessity for the same, with the description of its or their proposed starting point, route and terminus, and if it shall be necessary for the drainage of the land, or coal mine, or for sanitary purposes, or either or all of said purposes, that a drain, ditch or levee, or other similar work, be constructed, and to the public interest that the work shall be so constructed, the petitioner or petitioners shall so state in the petition and shall set forth the general description of the same as proposed, and shall ask for the condemnation of so much of the lands as may be sufficient to construct and build said ditch or ditches, drain or drains, levee or levees.

SEC. 2. DRAIN OR DITCH—HOW CONSTRUCTED.—If the petition is for the draining of any coal mine or mines, or for draining wet land, and it is practicable for the ditch or drain to be made under the surface of the ground and to the advantage of the owner, and it shall be so required in writing by the owner or occupant of the land over which the same shall be constructed, then the person or persons so constructing such drain or ditch shall so construct and build the same by laying piping or boxing made of substantial and good material, in a good and substantial manner a sufficient distance under the surface of the ground to avoid obstruction or inconvenience to the owner or occupant of the land; but if it can not be so done, or is unnecessary, then said drain or ditch may be erected upon the surface of the ground, doing as little injury to the owner or occupant as possible.

SEC. 3. COMPENSATION FOR PROPERTY TAKEN.—Private property shall not be taken or damages for the purpose of erecting such ditch, drain or levee without

just compensation if claimed by the owner or occupants, and said compensation shall be ascertained by a jury as hereinafter provided; but if such ditch, drain or levee shall be of benefit to the lands over which it shall be constructed, then the benefits and advantages shall be a set off against compensation that may be claimed by the owner or occupants of such land; but no benefits or advantages shall be set off against the value of the land actually taken. (Repealed by Act June 27, 1885, Laws 1885, 78, p. 108.)

* * * * *

CONSTRUCTION OF DRAINS AND LEVEES.

LAWS 1879, P. 120.

MAY 29, 1879.

AN ACT to provide for the construction, reparation and protection of Drains, Ditches and Levees, across the lands of others, for agricultural, sanitary and mining purposes, and to provide for the organization of Drainage Districts.

SECTION 1. DRAINAGE DISTRICTS.—Be it enacted, etc.: That drainage districts may be organized and established as hereinafter provided.

SEC. 2. PETITION.—Whenever a majority of the owners of lands, within a district proposed to be organized, who shall have arrived at lawful, and who represent one-third ($\frac{1}{3}$) in area of the lands to be reclaimed or benefited, desire to construct a drain or drains, ditch or ditches, levee or levees or other work, across the lands of others for agricultural, sanitary or mining purposes, or to maintain and keep in repair any such drain or drains, ditch or ditches, levee or levees heretofore constructed under any law of this State, such owners may file, in the county court of any county in which the greater part of the lands to be affected by said drain or drains, ditch or ditches, levee or levees, or other work proposed to be constructed, maintained or repaired, shall lie, a petition signed by a majority of the owners of said lands, within said district, proposed to be organized as aforesaid, setting forth the proposed name of said drainage district, the necessity of the same, with a description of its or their proposed starting points, route and terminus, and a general description of the lands proposed to be affected, with the names of the owners, when known. * * *

* * * * *

SEC. 5. HEARING—FINDINGS OF COURT—COMMISSIONERS.—On the hearing of any petition filed, * * * and if it shall further appear to the court that the proposed drain or drains, ditch or ditches, levee or other works is, or are necessary or will be useful for the drainage of the lands proposed to be drained thereby for agricultural, sanitary or mining purposes, the court shall so find, and appoint three disinterested persons as commissioners to lay out and construct such proposed work.

* * * * *

AMENDATORY ACT, 1885.

LAWS 1885, P. 109.

JUNE 30, 1885.

AN ACT to revise and amend an act, and certain sections thereof, entitled "An act, etc. (same as in section 1).

SECTION 1. Be it enacted, etc.: That the sections herein named of an act entitled "An act to provide for the construction, reparation and protection of drains, ditches and levees across the lands of others for agricultural, sanitary and mining purposes, and to provide for the organization of drainage districts,"

approved and in force May 29, 1879, as amended. * * * be and the same are hereby revised and amended, that is to say, that sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 17½, 18, 19, 20, 21, 22, 23, 24, 25 and 26, of said act, to which this act is an amendment, be and each of them is hereby so amended, as to read in their numerical order as follows:

SEC. 2. Whenever a majority of the owners of lands within a district proposed to be organized, who shall have arrived at lawful age and who represent one-third ($\frac{1}{3}$) in area of the lands to be reclaimed or benefited, desire to construct a drain or drains, ditch or ditches, levee or levees, or other work to be known in this act as a "drainage and levee district," or "drainage and levee work," across the lands of others, for agricultural, sanitary and mining purposes, or to maintain and keep in repair any such drain or drains, ditch or ditches, levee or levees, heretofore constructed under any law of this State, or to establish in said district a combined system of drainage or protection from overflow, independent of levees, for agricultural, sanitary or mining purposes, and maintain the same by special assessments upon the property benefited thereby, such owners may file, in the county court of any county in which the greater part of the lands to be affected by said drain or drains, ditch or ditches, levee or levees, or other work proposed to be constructed, maintained or repaired shall lie, a petition signed by a majority of the owners of said lands, within said district proposed to be organized as aforesaid, setting forth the proposed name of said drainage district, the necessity of the same, with a description of proposed starting points, route and terminus of the work and a general description of the lands proposed to be affected, with the names of the owners when known, and, if the purpose of said owners is the repair and maintenance of a ditch or ditches, levee or levees, or other work, heretofore constructed under any law of this State, said petition shall give a general description of the same, with such particulars as may be deemed important, and may pray for the organization of a drainage district, by the name and boundaries proposed, and for the appointment of commissioners for the execution of such proposed work according to the provisions of this act: * * *

SEC. 5. On the hearing of any petition filed under the provisions of this chapter, * * * and if it shall further appear to the court that the proposed drain or drains, ditch or ditches, levee or other works, is or are necessary, or will be useful for the drainage of the lands proposed to be drained thereby, for agricultural, sanitary or mining purposes, the court shall so find, and appoint three (3) competent persons as commissioners, each of whom shall hold his office until his successor is appointed as hereinafter provided, to lay out and construct such proposed work. * * *

ENGINEERING DEPARTMENT AT UNIVERSITY.

MINING ENGINEERING DEPARTMENT AT UNIVERSITY.

LAWS 1909, P. 43.

JUNE 8, 1909.

AN ACT authorizing and directing the establishment of a department of mining engineering in the College of Engineering, at the University of Illinois, and providing for the support of the same.

SEC. 1. Be it enacted, etc.: That the trustees of the University of Illinois be authorized and directed to establish, in the College of Engineering, at the University, a department of mining engineering.

SEC. 2. That the said department of mining engineering shall offer such courses of instruction relating to the science and practice of mining as will best serve to train young men for efficient work in the various phases of the mining industry.

SEC. 3. That in addition to its work of instruction, the said department of mining engineering shall, so far as practicable, concern itself with the development and dissemination of such scientific facts as are likely to be of service in improving the practice of mining, with reference to efficiency in operation, to the security of life in the mines, and to the conservation of the fuel and other mineral resources of the State.

SEC. 4. That there be and hereby is appropriated to the University of Illinois, to meet the cost of establishing and maintaining the said departments of mining engineering, the sum of seven thousand five hundred dollars (\$7,500) per annum.

SEC. 5. The Auditor of Public Accounts is hereby authorized and directed to draw his warrant on the Treasurer for the sum hereby appropriated, payable out of any money in the treasury, not otherwise appropriated, upon the order of the board of trustees of said University, attested by its secretary and with the corporate seal of said university thereto attached.

Approved June 8, 1909.

EXPLOSIVES.

LOCATION—NUISANCE.

REVISED STATUTES 1874, 352, P. 385.

MARCH 27, 1874.

AN ACT to revise the law in relation to criminal jurisprudence.

* * * * *

SEC. 221. NUISANCES—ENUMERATION.—It is a public nuisance:

* * * * *

6. To carry on the business of manufacturing gunpowder, nitro-glycerine, or other highly explosive substances, or mixing or grinding the materials therefor, in any building within twenty rods of any valuable building erected at the time such business may be commenced.

7. To establish powder magazines near incorporated towns at a point different from that appointed according to law by the corporate authorities of the town, or within fifty rods of any occupied dwelling house.

* * * * *

REGULATIONS.

LAWS 1887, P. 180.

JUNE 16, 1887.

AN ACT to regulate the manufacture, transportation, use and sale of explosives, and to punish an improper use of the same.

SECTION 1. Be it enacted, etc.: That any person, firm, company or corporation who shall make, manufacture, compound, buy or sell, or otherwise procure, or dispose of, or bring within the limits of this State, any dynamite, or any nitro-chlorate, or other explosive compound, with the intent to use the same, or that the same may be used for unlawful injury to or the unlawful destruction of life or property in any place whatsoever, shall be deemed guilty of felony, and, upon conviction thereof, shall be punished by imprisonment for a term of not less than five years nor more than twenty-five years.

SEC. 2. Any person abetting or in any way assisting in making, manufacturing, compounding, buying, selling, procuring, disposing of, storing, removing or transporting any dynamite, nitro-chlorate, or other explosive compound, as above named, either by furnishing the materials, ingredients, skill, means or labor, or by acting as agent, or in any manner acting as accessory before the fact, knowing or having reason to believe that the same is intended to be used by any person or persons in any way for the unlawful injury to or destruction of life or property, shall be deemed principal, and, upon conviction, shall be subject to the same punishment as provided in section 1 of this act.

SEC. 3. Any person soliciting or contributing money or other property for the manufacture, sale, transportation or use of said explosive compounds, knowing or having reason to believe that the same is intended to be used for any unlawful destruction of life or property, shall be deemed guilty of a felony,

and, upon conviction, shall be punished by imprisonment not less than three nor more than twenty-five years.

SEC. 4. That no person, firm, company or corporation shall make, manufacture or compound, within the limits of this State, any dynamite, nitro-chlorate, or other explosive compounds, within one mile of any inhabited dwelling; and no person, firm, company or corporation shall make, manufacture or compound any dynamite, nitro-chlorate, or other explosive compound, without a permit for such purpose, signed by the county clerk of the county in which said manufacturing or compounding is desired to be done, and duly attested with the seal of said official; and the said official issuing the said permit shall keep a record of the names and residences of persons to whom such writ is issued. The officer authorized by this act shall not issue such permit unless the purpose for which said explosive or compound is to be manufactured is a lawful one. Any person, firm, company or corporation making any such compound without such permit shall be guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine or imprisonment, or both, in the discretion of the court, such fine to be not less than two hundred dollars nor more than one thousand dollars, and for a second offense shall be deemed guilty of a felony, and be subject to imprisonment in the penitentiary for not less than one year nor more than five years, and a fine of not less than five hundred dollars nor more than two thousand dollars.

SEC. 5. That no person, firm, company or corporation shall store or keep any dynamite, nitro-chlorate, or other explosive compound, within three hundred yards of any inhabited dwelling if the same shall be located within any city, nor within the limits of any city, except in conformity with the existing ordinances governing the storage or keeping of such explosive compound. Any violation of the provisions of this section shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars.

SEC. 6. It shall be the duty of every person in this State who shall sell or otherwise dispose of any such explosive compound, as above described, to keep a record of the name and residence of every person to whom he disposes of any such explosive compound, and the kind and amount thereof, and the date of such transaction, and such record shall be preserved for not less than three years. All persons, firms, companies or corporations transporting any of the above compounds, shall keep a record of the names and residences of the person, firm, company or corporation forwarding such explosive compound, and of the kind and amount forwarded, together with the name and address of the person, firm, company or corporation to whom the same is forwarded, with the date of its receipt and delivery, and no transportation company shall receive any such explosive compound for transportation, unless the same is marked "explosive," "dangerous" in plainly legible letters on the outside of each and every package. Any violation of the provisions of this section shall be punished by a fine of not less than one hundred dollars, nor more than five hundred dollars. All records, as above described, shall, if any provision of this act shall hereafter be violated, be open to the inspection of the prosecuting attorney of any county where any such violation shall occur, for the purpose of detecting or convicting the person or persons guilty of such violation: Provided, however, that the provisions and restrictions of this law, so far as they shall, or may, relate to the manufacture, sale or transfer of any of the explosive articles herein enumerated, shall not apply to any such articles which shall be consigned to any point without the limits of this State, except that all packages shall be marked "explosive," "dangerous."

SEC. 7. Any person, firm, company or corporation, who by fraud, deception or misrepresentation shall procure the transportation of any such explosive

compound in any public conveyance, shall be deemed guilty of felony, and upon conviction shall be punished by imprisonment in the penitentiary for the term of not less than one year, nor more than five years, and a fine of not less than five hundred dollars nor more than two thousand dollars.

FIRST AMENDATORY ACT, 1889.

LAWS 1889, P. 152.

MAY 28, 1889.

AN ACT to amend section 4 of "An act to regulate the manufacture, transportation, use and sale of explosives, and to punish an improper use of the same," approved June 16, 1887, in force July 1, 1887.

SECTION 1. Be it enacted, etc.: That section 4 of "An act to regulate the manufacture, transportation, use and sale of explosives, and to punish an improper use of the same," approved June 16, 1887, in force July 1, 1887, be amended so as to read as follows:

SEC. 4. That no person, firm, company or corporation, shall make, manufacture or compound within the limits of this State, any dynamite, nitrochlorate, or other explosive compound within one-half ($\frac{1}{2}$) of a mile of any inhabited dwelling; and no person, firm, company or corporation shall make, manufacture or compound any dynamite, nitrochlorate or other explosive compound without a permit for such purpose signed by the county clerk of the county in which said manufacturing or compounding is desired to be done, and duly attested with the seal of said official, and the said official issuing the said permit shall keep a record of the names and residences of persons to whom such writ is issued. The officer authorized by this act shall not issue such permit unless the purpose for which said explosive or compound is to be manufactured is a lawful one. Any person, firm, company or corporation making any such compound without such permit, shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine and imprisonment, or both, in the discretion of the court, such fine to be not less than two hundred dollars nor more than one thousand dollars, and for a second offense, shall be deemed guilty of a felony and be subject to imprisonment in the penitentiary for not less than one year nor more than five years, and a fine of not less than five hundred dollars nor more than two thousand dollars.

SECOND AMENDATORY ACT, 1903.

LAWS 1903, P. 159.

MAY 15, 1903.

AN ACT to amend section 4 of an act of the General Assembly of the State of Illinois, entitled "An Act to regulate the manufacture, transportation, use and sale of explosives, and to punish an improper use of the same," approved June 16, 1887, and in force July 1, 1887, and amended by an act of the General Assembly of the State of Illinois, approved May 28, 1889, and in force July 1, 1889.

SECTION 1. Be it enacted, etc.: That section 4 of an act of the General Assembly of the State of Illinois, entitled "An act to regulate the manufacture, transportation, use and sale of explosives, and to punish an improper use of the same," approved June 16, 1887, in force July 1, 1887, as amended by an act of the General Assembly of the State of Illinois, approved May 28, 1889, and in force July 1, 1889, be amended so that the same shall read as follows:

SEC. 4. That no person, firm, company or corporation shall make, manufacture or compound, within the limits of this State, any dynamite, nitro chlorate or other explosive compound within one-half ($\frac{1}{2}$) mile of any inhabited dwelling,

without first having obtained the consent in writing of a majority of the legal voters residing within a radius of one-half ($\frac{1}{2}$) mile of such place of making, manufacturing or compounding: Provided, that nothing in this section shall authorize the manufacture or compounding of any dynamite, nitro chlorate or other explosive within any incorporated city or village; and no person, firm, company or corporation shall make, manufacture or compound any dynamite, nitro chlorate or any other explosive compound without a permit for such purpose, signed by the county clerk of the county in which said manufacturing or compounding is desired to be done, duly attested with the seal of such official, and said county clerk shall issue such permit when the consent in writing is presented of a majority of the adult residents and legal voters residing within a radius of one-half ($\frac{1}{2}$) mile of such place of making and manufacturing, and filed with him, and the official issuing said permit shall keep a record of said permit and contents, and of the names and residences of the persons to whom such writ or permit is issued. The officer authorized by this act shall not issue such permit, unless the purpose for which such explosive or compound is to be manufactured, is a lawful one. Any person, firm, company or corporation making any such compound without such permit shall be guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine and imprisonment in the county jail of not to exceed one year, or both, in the discretion of the court, such fine to be not less than two hundred dollars nor more than one thousand dollars and for a second offense shall be deemed guilty of a felony, and be subject to imprisonment in the penitentiary for not less than one year nor more than five years, and a fine of not less than five hundred dollars nor more than two thousand dollars.

THIRD AMENDATORY ACT, 1915.

LAWS 1915, P. 370.

JUNE 25, 1915.

AN ACT to amend section 4 of an Act of the General Assembly of the State of Illinois, entitled, "An Act, etc. (same as in section 1).

SECTION 1. Be it enacted, etc.: That section 4 of an Act of the General Assembly of the State of Illinois, entitled "An Act to regulate the manufacture, transportation, use and sale of explosives, and to punish an improper use of the same," approved June 16, 1887, in force July 1, 1887, as amended by an Act of the General Assembly of the State of Illinois, approved May 28, 1889, and in force July 1, 1889, as amended by an Act of the General Assembly of the State of Illinois approved May 15, 1903, and in force July 1, 1903, so that the same shall read as follows *:

* NOTE.—This section as printed in the session laws of 1915 (p. 370) uses no words to show that the section referred to is amended. The usual words, "be and the same is hereby amended" are omitted.

SEC. 4. That no person, firm, company or corporation shall make, manufacture or compound, within the limits of this State, any dynamite, nitrochlorate or other explosive compound within one half ($\frac{1}{2}$) mile of any inhabited dwelling, without first having obtained the consent in writing of a majority of the legal voters residing within a radius of one-half ($\frac{1}{2}$) mile of such place of making, manufacturing or compounding: Provided, that nothing in this section shall authorize the manufacture or compounding of any dynamite, nitrochlorate or other explosive within any incorporated city or village, unless the incorporated city or village is created and organized since the location and construction of such explosive manufactory; and no person, firm, company or corporation shall make, manufacture or compound any dynamite, nitrochlorate or any other explosive compound without a permit for such purpose signed by the county

clerk of the county in which said manufacturing or compound is desired to be done, duly attested with the seal of such official, and said county clerk shall issue such permit when the consent in writing is presented, of a majority of the legal voters residing within a radius of one-half ($\frac{1}{2}$) mile of such place of making and manufacturing, and filed with him, and the official issuing said permit shall keep a record of said permit and contents and of the names and residences of the persons to whom such writ or permit is issued. The officer authorized by this act, shall not issue such permit unless the purpose for which such explosive or compound is to be manufactured is a lawful one. Any person, firm, company or corporation making any such compound without such permit shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine and imprisonment in the county jail of not to exceed one year, or both in the discretion of the court, such fine to be not less than two hundred dollars nor more than one thousand dollars, and for a second offense shall be deemed guilty of a felony and be subject to imprisonment in the penitentiary for not less than one year nor more than five years, and a fine of not less than five hundred dollars nor more than two thousand dollars.

NOTE.—Section 4 of the original act of June 16, 1887, was first amended by the act of May 28, 1889. The same section was again amended by the act of May 15, 1903, and again amended by the act of June 25, 1915. Under familiar rules of constitutional law and statutory construction, an act that has been amended is functus officio and any second or subsequent act attempting to amend the original act after it has once been amended is void. Under this rule both the acts of May 15, 1903, and June 25, 1915, would be void. The question remains whether such an amendatory act is made valid by reciting in the title that the act amends a certain original act "as amended by an act of the General Assembly of the State of Illinois, approved," etc.

EXPLOSIVES—POWDER IN COAL MINE.

See Mining Operations, page 128.
Shot Firers, page 376.

LAWS 1903, P. 252.

MAY 14, 1903.

AN ACT concerning the use of powder in coal mines.

SECTION 1. Be it enacted, etc.: That, in all coal mines in this State, where coal is blasted, the quantity of powder used in the preparation of shots shall not in any case exceed sixty inches in coal seams five and one-half feet and over; and shall not exceed forty-eight inches in coal seams under five and one-half feet in thickness.

SEC. 2. For the purpose of determining the quantity of powder, prescribed in section 1 of this act, to be used in the preparation of any given shot, an inch of powder shall be one lineal inch, one and one-half inches in diameter, and it shall be measured in a metallic charger not to exceed twelve inches in length and one and one-half inches in diameter.

SEC. 3. No person shall drill or shoot what is known as a "dead" hole for any part of its depth; nor tamp any drill hole with drill dust, or other combustible material.

SEC. 4. Any violation of any of the conditions or requirements of this act shall be deemed a misdemeanor, punishable by a fine of not less than ten dollars (\$10) and not exceeding one hundred dollars (\$100), or by imprisonment in the county jail for a period not exceeding three months or both, at the discretion of the court.

SEC. 5. WHEREAS, An emergency exists, therefore, this act shall take effect and be in force from and after its passage and approval. (Repealed by Act of June 6, 1911. See page 212.)

AMENDATORY ACT, 1907.**LAWS 1907, P. 401.****MAY 24, 1907.**

AN ACT to amend sections 1 and 2 of an Act entitled, "An Act, etc. (same as in section 1).

SECTION 1. Be it enacted, etc.: That sections 1 and 2 of an Act entitled, "An Act concerning the use of powder in coal mines," approved and in force May 14, 1903, be, and the same are hereby amended to read as follows:

SEC. 1. That in all coal mines in this State, where coal is blasted, the quantity of the powder to be used in the preparation of shots shall not, in any case, exceed five (5) standard charges full of powder in coal seams five and one-half ($5\frac{1}{2}$) feet or over in thickness; and shall not, in any case, exceed four (4) standard charges full of powder in coal seams under five and one-half ($5\frac{1}{2}$) feet in thickness.

SEC. 2. For the purpose of determining the quantity of powder, prescribed in section 1 of this Act, to be used in the preparation of any given shot, a standard charger is defined and prescribed to be a cylindrical metallic charger not to exceed twelve (12) inches in length, and not to exceed one and one-half ($1\frac{1}{2}$) inches in diameter. (Repealed by Act of June 6, 1911. See page 229.)

EXPLOSIVES IN COAL MINES—BLACK POWDER.**LAWS 1911, P. 385.****JUNE 7, 1911.**

AN ACT to promote the safety of persons and property in coal mines by regulating the character of black blasting powder sold to be used in coal mines.

SECTION 1. Be it enacted, etc.: That black powder for use for blasting in coal mines shall conform to the following specifications:

(a) It shall have a specific gravity of not less than 1.74 nor more than 1.90.
(b) It shall have a moisture content of not to exceed one per cent at the time when shipped by the manufacturer or his agent.

(c) Said powder shall be sold for use in coal mines only in seven sizes of granulation to be determined as follows:

CCC shall be powder which shall pass through a screen having round hole perforations of 40-64 of an inch in diameter and remain on a screen having round hole perforations of 32-64 of an inch in diameter.

CC shall be powder which shall pass through a screen having round hole perforations of 36-64 of an inch in diameter and remain on a screen having round hole perforations of 26-64 of an inch in diameter.

C shall be powder which shall pass through a screen having round hole perforations of 27-64 of an inch in diameter and remain on a screen having round hole perforations of 18-64 of an inch in diameter.

F shall be powder which shall pass through a screen having round hole perforations of 20-64 of an inch in diameter and remain on a screen having round hole perforations of 12-64 of an inch in diameter.

FF shall be powder which shall pass through a screen having round hole perforations of 14-64 of an inch in diameter and remain on a screen having round hole perforations of 7-64 of an inch in diameter.

FFF shall be powder which shall pass through a screen having round hole perforations of 9-64 of an inch in diameter and remain on a screen having round hole perforations of 2-64 of an inch in diameter.

FFFF shall be powder which shall pass through a screen having round hole perforations of 5-64 of an inch in diameter and remain on a screen having round hole perforations of 2-64 of an inch in diameter.

In testing powder for size of granulation as herein required, it shall be permissible for a given size to contain not to exceed $7\frac{1}{2}$ per cent by weight of grains of the size next larger and $7\frac{1}{2}$ by weight of grains of the size next smaller.

SEC. 2. All black powder sold for use in coal mines in this State shall have plainly stamped on the keg or package in which it is contained the letter showing the size of granulation according to the requirements of this Act.

SEC. 3. Any person, firm or corporation who shall sell for use in coal mines in this State any black powder not stamped as herein required, or who shall knowingly sell for use in coal mines in this State any powder which is untruthfully branded or stamped, and any person, firm or corporation being a manufacturer of black powder, or the agent of any such manufacturer of black powder, who shall sell for use in any coal mine in this State any powder which shall not conform to the requirements of this Act in respect to the specific gravity and moisture content shall be guilty of a misdemeanor, and shall be punishable by a fine of not exceeding \$100.00 or by imprisonment in the county jail for not exceeding ninety (90) days, or both, in the discretion of the court.

SEC. 4. (a) State mine inspectors and county mine inspectors shall have authority to sample black blasting powder used for blasting purposes in coal mines in this State, or kept on hand for sale or intended for shipment for use in such mines, and for such purposes they may enter upon the premises of any person.

(b) An inspector when sampling black blasting powder shall secure as accurate an average sample as is practicable, and shall test the granulation of such sample with screens provided for in this Act.

(c) If the inspector shall desire to have said sample tested for specific gravity or moisture content, he shall send the same to the State Mining Board for that purpose, and when such samples are intended to be tested for moisture content, they must be taken at the mill or warehouse of the manufacturer or manufacturer's agent, or in the railroad car for shipment at said mill or the warehouse; and said samples when so taken shall be immediately sealed moisture-proof before being sent to the State Mining Board.

When such samples are received by the State Mining Board they shall cause the same to be properly and accurately tested for specific gravity and for moisture content.

(d) If samples of powder when sampled and tested as provided in this Act shall be found not to comply with the provisions herein, the person, firm or corporation guilty of violating the provisions of this Act shall be prosecuted in accordance with the provisions hereof.

PERMISSIBLE EXPLOSIVES.

LAWS 1913, P. 431.

JUNE 26, 1913.

AN ACT to promote the safety of persons and property in coal mines by regulating the character of permissible explosives sold to be used in coal mines.

SECTION 1. Be it enacted, etc.: That all permissible explosives for use in blasting coal in the State of Illinois shall conform to the following specifications:

(a) All permissible explosives offered for sale in the State of Illinois shall have printed on each cartridge and individual package the name of the manufacturer, the registered trade mark, brand, grade and a statement that it conforms in strength to that grade and brand established by the United States Bureau of Mines;

(b) Each shipping case shall have marked on it the total weight of explosives contained therein, and the average weight, length and diameter of each stick contained therein:

(c) Each shipping case containing permissible explosives shall be marked "Permissible Explosives."

(d) Each ingredient of a permissible explosive shall not vary more than the permitted variation established by the United States Bureau of Mines.

(2) State mine inspectors, county mine inspectors, and the accredited representatives of the coal operators and coal miners shall have authority to sample permissible explosives used for blasting purposes in coal mines in the State of Illinois, or kept on hand for sale, or intended for shipment for use in such mines, and for such purposes, they may enter upon the premises of any person, firm or corporation.

(3) If the State mine inspectors, county mine inspectors, or the accredited representatives of the coal operators or coal miners shall desire to have said sample tested for content, they shall send the same to the United States Bureau of Mines for that purpose.

(4) When such samples are intended to be tested for content, they must be taken at the mill or warehouse of the manufacturer or manufacturer's agent, or in the railroad car for shipment at said mill or warehouse or the magazine at the mine, and said samples shall be taken in accordance with the rules established by the United States Bureau of Mines.

(5) If samples of permissible explosives when tested as provided for in this Act shall be found not to comply with the provisions herein, the person, firm or corporation guilty of violating the provisions of this Act shall be prosecuted in accordance with the provisions hereof.

(6) Permissible explosives shall be stored in magazines constructed in accordance with plans that shall be approved by the State mine inspector of the district in which the mine is located.

(7) Every magazine shall be provided with a wooden floor which shall be kept free from grit and dirt. If more than one kind of explosive is kept in the same magazine, the magazine shall be divided into rooms by partitions; the different kinds of explosives shall be kept in different rooms, but no detonators, or blasting caps, or any device containing fulminating composition shall be kept in the same magazine with any explosive. All detonators, blasting caps or any device containing fulminating composition shall be kept separate in a safe and dry receptacle apart from any other explosive.

(8) Any person, firm or corporation changing any stamp, brand, or specification denoting the contents of any package or cartridge shall be subject to the penalties provided for herein.

(9) Any person, firm or corporation who shall sell for use in the coal mines in this State any permissible explosive not stamped as herein required, or who shall knowingly sell for use in coal mines in this State any permissible explosive which is untruthfully branded or stamped, and any person, firm or corporation being a manufacturer of permissible explosives, or the agent of any such manufacturer of permissible explosives, who shall sell for use in any coal mine in this State any permissible explosive which shall not conform to the requirements of this Act, shall be punishable by a fine of not exceeding one hundred dollars (\$100.00), or by imprisonment in the county jail for not exceeding ninety (90) days, or both, in the discretion of the court: Provided, that nothing in this Act shall be construed to apply to permissible explosives shipped prior to this Act taking effect.

GEOLOGIST—GEOLOGICAL SURVEY.

GEOLOGICAL SURVEY—RESOLUTION.

LAWS 1846-7, P. 176.

PREAMBLE AND RESOLUTION relative to the geological, mineralogical, and agricultural resources of the State of Illinois.

WHEREAS, it is indisputable that for rich geological, mineralogical and agricultural resources, the State of Illinois is not surpassed by any State in the Union; and whereas, it is of vital importance to the future interest and prosperity of our State, that her latent resources be fully known and developed; and whereas, it has been represented that the persons named in the following resolution, in their deep interest in the prospective advantages to our State of such a demonstration to the world of her resources, are generously disposed to interest themselves in the advancement of such a result, free of charge; therefore, be it

Resolved by the House of Representatives, the Senate concurring herein, That A. Randall, Charles Whitlesey, John S. Wright, H. S. Cooley, and Francis Springer, be, and they are hereby appointed commissioners of the State of Illinois, to prepare and report to the Governor of the State of Illinois, on or before the first Monday in April, 1848, a statement of the propriety, advantages, etc., of a geological survey of this State: Provided, that no charge shall be made to this State for their services as said commissioners.

STATE GEOLOGIST.

LAWS 1851, P. 154.

FEBRUARY 17, 1851.

AN ACT for a geological and mineralogical survey of the State of Illinois.

SECTION 1. Be it enacted, etc.: That the governor, auditor and treasurer of the State are hereby authorized and required, as early as may be, to employ a geologist of known integrity and practical skill, for the purpose of making a geological and mineralogical survey of the entire territory of this State.

SEC. 2. It shall be the duty of said geologist to proceed, as soon as the necessary arrangements can be made, and with as much dispatch as may be consistent with minuteness and accuracy, to ascertain the order, succession, arrangement, relative position, dip and comparative magnitude of the several strata or geological formation within the State; to search for and examine all the beds and deposits of ores, coals, clays, marls, rocks and such other mineral substances as may present themselves, and to obtain chemical analysis of these substances, the elements of which are undetermined, and, by strict barometrical observations, to determine the relative elevations and depressions of the different parts of the State.

SEC. 3. It shall also be the duty of said geologist, during the time employed in the above work, to make annual reports of the progress and results of his labor, accompanied by such maps and drawings as may be deemed necessary, to illustrate the said reports; all of which shall be transmitted to the governor, in such condition that he may, without delay, cause them to be printed and circulated throughout the State, or wherever else he may desire to send them.

SEC. 4. It shall be the duty of said geologist to procure and preserve a full and entire suit of the different specimens found in the State, and cause them to be delivered to the secretary of state, who shall cause them to be properly arranged in a cabinet, and deposited in some apartment in or convenient to the capitol. Said suit shall be sufficiently large to furnish specimens to all institutions of learning within the State, empowered to confer degrees in the arts and sciences.

SEC. 5. The final reports of said geologist shall embody the results of the entire survey, and shall be accompanied by a geological map of the State, showing, by different colors and other marks and characters, the precise localities and extent of the different geological formations.

SEC. 6. For the purpose of carrying out and completing the said survey, the sum of not exceeding three thousand dollars is hereby placed at the disposal of the governor, to be applied to the payment of the said geologist, and such assistants as he may employ, by and with the consent of the governor, auditor and treasurer, and to defray the incidental expenses of the survey; which annual appropriation shall continue until the completion of said survey, or until its discontinuance be ordered by the legislature of this State.

SEC. 7. No money shall be paid to said geologist, or for the purpose of said survey, until the work shall be commenced.

SEC. 8. The said survey shall, if practicable, be commenced at the southern part of the State, and be proceeded with northerly. (Repealed February 28, 1867, Laws 1867, p. 10. P. 21.)

This act to take effect and be in force from and after its passage.

FIRST AMENDATORY ACT, 1853.

LAWS 1853, P. 237.

FEBRUARY 12, 1853.

AN ACT to amend an act entitled "An act for a geological and mineralogical survey of the State of Illinois." (Passed February 17, 1851.)

SECTION 1. Be it enacted, etc.: That the sum of five thousand dollars be and the same is hereby annually appropriated for the purpose of carrying out and completing the geological and mineralogical survey of the State of Illinois; and also the further sum of five hundred dollars per annum, for the purpose of furnishing accurate topographical maps of the several counties in the State, to be made out under the direction and superintendence of the State geologist. The said sums of money are hereby placed at the disposal of the governor, to be applied by him to the uses and purposes specified in this act, and the act to which this is an amendment.

This act to take effect and be in force from and after its passage.

SECOND AMENDATORY ACT, 1873.

LAWS 1873, P. 98.

LAWS 1873-74, P. 106.

APRIL 29, 1873.

APRIL 29, 1873.

AN ACT to amend an act entitled "An act for a geological and mineralogical survey of the State of Illinois," approved February 17, 1851.

SECTION 1. Be it enacted, etc.: That, section 4 of "An act for a geological and mineralogical survey of the State of Illinois," approved February 17, 1851, be and the same is hereby amended so as to read as follows:

SEC. 4. It shall be the duty of said geologist to procure and preserve a full and entire suit of the different specimens found in the State, and cause them to be delivered to the secretary of state, who shall cause them to be properly

arranged in a cabinet, and deposited in some apartment in or convenient to the capitol. Said suit shall be sufficiently large to furnish specimens to all institutions of learning within the State which are empowered to confer degrees in the arts or sciences, to the State normal schools, to the Industrial University at Champaign, and to all chartered institutions of science located in this State which publish their proceedings, and which keep up a regular system of exchanges with other like institutions.

GEOLOGIST—APPROPRIATIONS—REPORT (VOL. 3)—REPEALING ACT.

LAWS 1867, P. 10.

FEBRUARY 28, 1867.

AN ACT to increase the efficiency of the geological and mineralogical survey of the State.

SECTION 1. (Salary of State geologist \$3,000 and necessary traveling expenses.)

SEC. 2. (Additional appropriation of \$10,000 per annum to be expended under direction of State geologist.)

SEC. 3. (Appropriation of \$5,000 for the publishing of third volume of reports.)

SEC. 4. That section eight (8) of the act approved February, 1851, providing for a geological and mineralogical survey of the State, be, and the same is hereby repealed.

SEC. 5. This act shall be deemed a public act, and be in force from and after its passage.

APPROPRIATION—REPORT (VOL. 4).

LAWS 1869, P. 47.

MARCH 11, 1869.

AN ACT providing for the publication of the fourth volume of the report of the State geologist, and fixing his salary for the next two years.

SECTION 1. Be it enacted, etc.: That the publication of 3,000 copies of the fourth volume of the report of the State geologist is hereby authorized, and the sum of \$7,500 is hereby appropriated to defray the cost of engraving the necessary plates, maps, diagrams, and drawings; and, also, the further sum of \$1,500, to complete the necessary drawings for the fifth volume of said report;

* * * * *

SEC. 3. (Salary of State geologist to be \$3,000 per annum for two years.)

SEC. 4. (Distribution of reports.)

SEC. 5. This act shall be a public act, and take effect and be in force from and after its passage.

APPROPRIATION—REPORT (VOL. 5).

LAWS 1871-72, P. 166.

APRIL 3, 1872.

AN ACT providing for the Publication and Distribution of the Fifth Volume of the Report of the State geologist, and to fix the amount of his Salary until the Publication of the Sixth and Final Volume of said Report.

SECTION 1. (\$6,500 appropriated for publication of 3,000 copies of geologist's report.)

SEC. 2. (Providing for paper, printing, binding, etc.)

SEC. 3. (Providing for distribution by the secretary of state.)

SEC. 4. There shall be paid the State geologist the sum of \$2,000, as in full for his services and all expenses in superintending the publication of the said fifth volume, and finishing the sixth volume for publication, to be paid quarterly out of any money in the state treasury not otherwise appropriated.

APPROPRIATION—REPORT (VOL. 6).

LAWS 1873, P. 14.

APRIL 23, 1873.

LAWS 1873-4, P. 17.

APRIL 23, 1873.

AN ACT providing for the publication and distribution of the sixth volume of the report of the State geologist, to fix the amount of his salary, and provide for moving the State collection of geological specimens into the new State House.

SECTION 1. (Appropriation of \$7,500 for publication of sixth volume of State geologist's report.)

SEC. 2. (Providing for paper, printing, binding, etc.)

SEC. 3. (Authorizing secretary of state to distribute reports.)

SEC. 4. The state geologist is hereby required to move the state collection of geological specimens, now in the basement of the post-office building in this city, into the room prepared for its reception in the new state house, and the sum of one hundred and twenty-five dollars, or so much thereof as may be necessary, is hereby appropriated to defray the expense of removal.

SEC. 5. The salary of the State geologist shall be \$2,500 per annum, for two years from and after the first day of July, A. D. 1873, and his necessary office and traveling expenses, not to exceed \$600 per annum; and he shall be allowed the further sum of \$500 per annum, from said date, to defray the salary of an assistant, who shall be paid at that rate only for the time actually employed—all of which sums shall be payable quarterly; and he shall be allowed the further sum of \$1,500 for drawings for the sixth and final volume of his report; all of which sums are hereby appropriated.

APPROPRIATION—A. PAINE.

LAWS 1873-74, P. 13.

MARCH 26, 1874.

AN ACT making an appropriation for the payment of the claim of A. Paine, for binding the first and second volumes of the report of the Geological Survey of Illinois.

SECTION 1. (Providing for the appropriation of \$7,636.18 to pay the claim of A. Paine for binding the first and second volumes of the report of the geological survey of the State.)

APPROPRIATION—REPORT (VOL. 7).

LAWS 1881, P. 17.

MAY 26, 1881.

AN ACT to provide for the preparation and publication of the Illinois Geological Reports.

WHEREAS, the mineral resources of this State are of great value and importance, and their full development is deemed a matter of paramount interest to its future prosperity, and to this end it is necessary to collect and prepare for publication in some permanent form all such facts and information as can be obtained, from year to year, by personal examination of important localities by a competent geologist, and from experiments made by private parties with a drill, and by shafts for coal and other mineral products; and

WHEREAS, there is a great and increasing demand for the volumes of the geological reports already published; and

WHEREAS, the economical portion of said reports, relating especially to the mining and agricultural interests of this State, can be reproduced in three (3) royal octavo volumes of about five hundred and fifty (550) pages each, at a

cost not exceeding seventy-five (75) cents per copy for each volume; therefore,

SECTION 1. Be it enacted, etc.: That the curator of (the) State historical library and natural history museum, who is also required to perform such duties as may by law be required of the State geologist, shall, during the ensuing two years, collect and prepare for publication in a style conformable with the volumes of the geological survey already published, a volume with such maps, sections and plates as he may deem necessary to properly illustrate the same: this volume to be Vol. 7 of the geological survey of Illinois. Five thousand (5000) copies of said seventh volume, together with three thousand (3000) copies of each of the three (3) volumes comprising the economical portion of the six (6) volumes already published, to be printed by State authority under the law authorizing State printing and binding.

SEC. 2. (Distribution provided for.)

SEC. 3. Providing for appropriation of \$5,000 for salaries, etc., also \$5,000 for printing, binding, etc.

SEC. 4. Auditor of public accounts is authorized to draw his warrant for such amounts.

APPROPRIATION—REPORT (VOL. 8).

LAWS 1885. P. 30.

JUNE 27, 1885.

AN ACT to provide for the preparation and publication of volume 8, of the Geological Survey of Illinois.

SECTION 1. Be it enacted, etc.: That the curator of the State historical library and natural history museum, who is required to perform such duties as may by law be required of the State geologist, shall, during the ensuing two years, collect and prepare for publication, in a style conformable with the volumes of the geological survey already published, a volume with such maps, sections and plates as he may deem necessary to properly illustrate the same; this volume to be entitled "Volume 8, of the Geological Survey of Illinois:" five thousand copies of said volume to be printed and bound by State authority, under the law authorizing State printing and binding, the paper for the same to be furnished by the secretary of state, under the contract for printing paper and stationery, and the printing to be done in style of type and press work conformable with that of the preceding volumes, and acceptable to the said director.

SEC. 2. (Distribution.)

SEC. 3. For carrying out the provisions of this act the sum of five thousand dollars (\$5,000) per annum, is hereby appropriated, or so much thereof as may be required to prepare the said volume for publication, to pay the salaries of such assistants as may be required, for traveling and incidental expenses, and for drawing, engraving and printing such plates and sections as may be required to properly illustrate the volume.

SEC. 4. The auditor of public accounts is hereby authorized and required to draw his warrant on the State treasurer for the sum above named, on vouchers duly certified by the director of the work, and approved by the governor; and the State treasurer shall pay said amount out of the funds hereby appropriated.

GEOLOGICAL SURVEY IN UNIVERSITY.

REPEALED. SEE PAGE 439.

LAWS 1905, P. 30.

MAY 12, 1935.

AN ACT to establish and create, at the University of Illinois, the bureau to be known as a State Geological Survey, defining its duties and providing for the preparation and publication of its reports and maps to illustrate the natural resources of the State, and making appropriation therefor.

SECTION 1. Be it enacted, etc.: That there be and is hereby created and established at the University of Illinois a bureau, to be known as a State Geological Survey, which shall be under the direction of a commission, to be known as the State Geological Commission, composed of the governor (who shall be ex-officio chairman of the commission), the president of the University of Illinois and one other competent person to be appointed by the Governor, who shall hold office for the term of four years and until his successor is appointed and qualified.

SEC. 2. The said commissioners shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their official duties; and said commissioners shall have general charge of such bureau, and shall appoint a director, who may, with the approval of the board, appoint such assistants and employes as may be necessary to carry out the provisions of this act.

SEC. 3. The director appointed under the provisions of this act, and the assistants and employes appointed by him, as hereinbefore provided, shall receive such salaries or compensation as may be determined by the Board of Commissioners.

SEC. 4. The said bureau shall have for its objects and duties the following:

(1.) A study of the geological formations of the State with special reference to its products, i. e., coals, ores, clays, building stones, cement, materials suitable for use in the construction of roads, gas, mineral and artesian water and other mineral resources.

(2.) The preparation of geological and other necessary maps to illustrate the resources of the State.

(3.) The preparation of reports, with necessary illustrations and maps, which shall include both a general and detail description of the geological and mineral resources of the State.

(4.) The consideration of such other scientific and economic questions as in the judgment of the commissioners shall be deemed of value to the people.

SEC. 5. The regular and special reports of the said bureau shall be printed and distributed or sold, as the commissioners shall deem best for the interests of the people of the State, and as they may direct; and all moneys obtained by the sale of said reports shall be paid into the State treasury.

SEC. 6. The printing of said reports and of the necessary supplies of stationery, blank books and other printed matter necessary for the purposes of said bureau shall be and form a part of the State printing contract and as such be under the direction and supervision of the Board of Commissioners of State Contracts; Provided, however, that the cost thereof shall not exceed the sum of five thousand (\$5,000) dollars per annum.

SEC. 7. The directors shall present to the Governor an annual report showing the progress and condition of said bureau, together with such other information as the commissioners may deem necessary and useful.

SEC. 8. All materials collected after having served the purpose of the bureau, shall be distributed by the director to the educational institutions of the State in such manner as the commissioners may determine to be of the greatest ad-

vantage to the educational interests of the State, or, if deemed advisable, the whole or part of such material may be placed on permanent exhibition in the State Museum of Natural History at Springfield, or in the museums of the University of Illinois.

SEC. 9. The sum of twenty-five thousand (\$25,000) dollars per annum, or so much thereof as may be necessary, is hereby appropriated out of any money in the State treasury, not otherwise appropriated, to provide for the payment of actual expenses incurred by the said commissions [commissioners] in the performance of their official duties hereunder, and for other expenses or obligations authorized by them, and for the payment of the salary of the director appointed by said commissioners, and for the payment of the salaries or other compensation of the assistants and employés that may be appointed hereunder; and the Auditor of Public Accounts is hereby authorized and instructed to draw his warrant on the treasury for the allowance of said expenses and salaries upon the presentation of proper vouchers approved by the Governor.

SEC. 10. The said commissioners are hereby authorized to arrange with the director or the representative of the United States Geological Survey in regard to coöperation between the said United States Geological Survey and the said State Geological Commission in the preparation and completion of a contour topographic survey and map or maps of this State and said commission may accept or reject the work of said United States Geological Survey.

SEC. 11. In order to carry out the provisions of this Act it shall be lawful for any person or persons employed hereunder to enter and cross all lands within this State: Provided, that in so doing no damage is done to private property.

SEC. 12. The Commission may expend in the prosecution of such cooperative work a sum equal to that which shall be expended thereon by the United States Geological Survey: Provided, that not more than ten thousand (10,000) dollars be expended in this work in any one year. (Amended.)

SEC. 13. That it shall be the duty of the University of Illinois to give thorough and reliable instruction in the geology of clay-working materials, their origin, classification, physical and chemical properties, and their behavior under such influences as are met during the processes of manufacture, and to provide for this purpose such instructors, laboratories, apparatus and all illustrative material as may be necessary to make this instruction practical; and to carry out the provisions of this section there is hereby appropriated the sum of five thousand (5,000) dollars annually and the auditor of public accounts is hereby authorized to draw his warrants on the State Treasurer for the sum appropriated in this section upon order of the chairman of the Board of Trustees of the University of Illinois, countersigned by the secretary and with the corporate seal of the university.

SEC. 14. All previous enactments which conflict with the provisions of this act are hereby repealed. (Repealed.)

GEOLOGICAL COMMISSION—APPROPRIATION.

LAWS 1907-8, 17, P. 29 (ADJOURNED SESS.).

JUNE 4, 1907.

AN ACT to provide for the ordinary and contingent expenses of the State government, etc.

* * * * *

Sixty-fifth, State Geological Commission, \$25,000 per annum. For making survey of overflowed lands, \$15,000.

* * * * *

AMENDATORY ACT.

LAWS 1911, P. 517.

MAY 25, 1911.

AN ACT to amend section 12 of an Act entitled "An Act, etc." (Same as in section 1.)

SECTION 1. Be it enacted, etc.: That section 12 of an Act entitled, "An Act to establish and create, at the University of Illinois, a bureau to be known as the State Geological Survey, defining its duties and providing for the preparation and publication of its reports and maps to illustrate the natural resources of the State, and making appropriation therefor," approved May 12, 1905, in force July 1, 1905, be and the same is hereby amended to read as follows:

SEC 12. The commission may expend in the prosecution of such cooperative work a sum equal to that which shall be expended thereon by the United States Geological Survey.

STATE GEOLOGICAL COMMISSION—APPROPRIATION.

LAWS 1911, 90, P. 107.

JUNE 10, 1911.

AN ACT to provide for the ordinary and contingent expenses of the State government, etc.

SEC. 1. Be it enacted, etc.: That the following named sums, or so much thereof as may be necessary respectively for the purposes hereinafter named be and are hereby appropriated to meet the ordinary and contingent expenses of the State government.

- * * * * *
- Sixty-fifth. To the State Geological Commission for the support of and extension of the geological survey of the State, the sum of \$25,000 per annum.
- For making a survey of the overflowed lands in Illinois \$7,500.
- For study of the coal mining industry, accidents and wastes in cooperation with the United States Bureau of Mines and the University of Illinois, the sum of \$4,500 annually. (Preliminary arrangements already made.)
- For preparing and engraving illustrations and maps and for binding and printing such reports of the survey, all printing contracts to be approved by the printer expert, the sum of \$2,500 per annum.
- For maintenance and equipment for the School of Ceramics at the University of Illinois, \$15,000 per annum.

* * * * *

AMENDMENT.

LAWS 1911-12, 20, P. 37.

JUNE 6, 1912.

AN ACT to amend section one (1) of an Act entitled, "An Act, etc. (same as in section 1).

SECTION 1. Be It enacted, etc.: That section one (1) of an Act entitled, "An Act to provide for the ordinary and contingent expenses of the State government, etc.," approved June 10, 1911, in force July 1, 1911, be and the same is hereby amended to read as follows:

SEC. 1. That the following named sums, be and are hereby appropriated to meet the ordinary and contingent expenses of the State government.

- * * * * *
- Sixty-fifth. To the State Geological Commission, \$25,000 per annum.
- For making survey of overflowed lands \$7,500.

STATE GEOLOGICAL COMMISSION.

LAWS 1913, 95, P. 112.

JUNE 30, 1913.

AN ACT to provide for the ordinary and contingent expenses of the State government, etc.

SEC. 1. Be it enacted, etc.: That the following sums be, and are hereby, appropriated to meet the ordinary and contingent expenses of the State government, etc:

* * * * *

Sixty-fifth. To the State Geological Commission. \$25,000.

For making a survey of overflowed lands, \$7,500.

* * * * *

MINE FIRE FIGHTING AND RESCUE STATION.

FIRE FIGHTING AND RESCUE STATIONS.

See Mine fire fighting equipment, page 33.

LAWS 1909-10, P. 2 (SPECIAL SESSION).

MARCH 4, 1910.

AN ACT to establish and maintain in the coal fields of Illinois mine fire fighting and rescue stations, and to make appropriation therefor.

SECTION 1. Be it enacted, etc.: That for the purpose of providing prompt and efficient means of fighting mine fires and of saving lives and property jeopardized by fires, explosions or other accidents in coal mines in Illinois, there shall be constructed, equipped and maintained at public expense three rescue stations to serve the northern, the central and the southern coal fields of the State.

SEC. 2. The Governor shall appoint a commission consisting of seven members, including two coal mine operators, two coal miners, one State mine inspector, one representative of the department of mining at the University of Illinois, and one representative of the federal organization for the investigation of mine accidents. Said commission shall, within ten days after their appointment, meet and organize by electing one of their number chairman and another secretary of said commission, who shall hold their respective offices for a period of one year from the date of their election and until their successors are elected and qualified. Members of the said commission not otherwise in the employ of the State or federal government shall receive ten dollars (\$10.00) per day for services rendered, not to exceed twenty-five (25) days during any one year, and all members of said commission shall be reimbursed for actual expenses while engaged in official work, approved by the commission; which commission shall be responsible for the proper carrying out of the provisions of this Act.

SEC. 3. The said commission shall provide or purchase or accept as a gift, suitably located sites for the stations, temporary and permanent quarters and suitable equipment and materials for the work: Provided, however, that the total cost of the equipment and maintenance of the service to July 1, 1911, shall not exceed seventy-five thousand (\$75,000) dollars. The said commission shall further arrange for coöperation in the work with mine owners, miners and State and federal organizations so as to render the service of the utmost efficiency.

SEC. 4. The State Architect shall, as provided by law, furnish plans and specifications for suitable buildings as required by said commission.

SEC. 5. The said commission shall appoint as manager of the three stations and of their work, a man experienced in mining and mine engineering. The manager shall, with the advice and consent of the said commission, appoint for each station a superintendent and an assistant. Each appointee shall serve for a term of two years and until his successor is appointed and qualified, unless sooner discharged by the said commission. Each appointee before entering upon the duties of his office shall take and subscribe to the oath of office as provided by law.

SEC. 6. The manager shall receive two hundred and fifty dollars (\$250) per month; each station superintendent one hundred and twenty-five dollars (\$125)

per month; and each appointee shall receive his necessary and actual traveling expenses while engaged in official duties.

SEC. 7. The manager shall, subject to approval of said commission, supervise the work at each of the three stations, shall purchase necessary supplies and shall file with the said commission, at the end of each quarter, a complete report of all operations and expenditures and an invoice of all supplies on hand. He shall provide that at each station some representative shall be on duty or within call at all hours of day and night for each day of the year.

SEC. 8. Whenever the manager or the superintendent of any station shall be notified by any responsible person that an explosion or accident requiring his services has occurred at any mine in the State, he shall proceed immediately with suitable equipment and on arrival at the said mine shall superintend the work of the rescue corps in saving life and property; and he shall cooperate with the management of the mine in rescue work, the said manager shall have authority over and may assume control of the mining property to such extent as is necessary for the protection of human life in the mine, during such time as members of the rescue corps are under ground, and while there is a reasonable expectation that men entombed in the mine may be alive.

SEC. 9. The commission shall prepare an annual report to the Governor and the General Assembly with necessary illustrations showing the work performed and money expended by the mine rescue service; and the State Board of Contracts is hereby directed to print and bind said reports promptly out of the appropriations for such board of contracts.

SEC. 10. To carry into effect the provisions of this Act, there is hereby appropriated the sum of seventy-five thousand dollars (\$75,000) of any money in the hands of the State Treasurer not otherwise appropriated; and the Auditor of Public Accounts is hereby directed to draw his warrants on the Treasurer on receipt of vouchers, properly certified by the chairman and secretary of said commission and approved by the Governor.

FIRST AMENDATORY ACT, 1911.

LAWS 1911, P. 424.

JUNE 5, 1911.

AN ACT to amend sections 2, 5 and 9 of an Act entitled, "An Act, etc. (same as in section 1).

SECTION 1. Be it enacted, etc.: That sections 2, 5 and 9 of an Act entitled, "An Act to establish and maintain in the coal fields of Illinois, mine fire fighting and rescue stations, and to make an appropriation therefor," approved March 4, 1910, in force July 1, 1910, and the title thereto be and the same are hereby amended to read as follows:

SEC. 2. The Governor shall appoint a commission, consisting of seven members, including two coal mine operators, two coal miners, one State Mine Inspector, one representative of the department of mining at the University of Illinois, and one representative of the Federal Bureau of Mines. Said commission shall, within ten days after their appointment, meet and organize by selecting one of their number chairman and another secretary of said commission, who shall hold their respective offices for a period of one year from the date of their election and until their successors are elected and qualified. Members of the said commission shall receive ten dollars (\$10.00) per day for services rendered, not to exceed twenty-five (25) days during any one year, and all members of said commission shall be reimbursed for actual expenses while engaged in official work, approved by the commission; which commission shall be responsible for the proper carrying out of the provisions of this Act.

SEC. 5. The said commission shall appoint as manager of three stations and of their work, a man experienced in mining and mine engineering. The manager

shall, with the advice and consent of the said commission, appoint for each station a superintendent and an assistant. Each appointee shall serve for a term of two years and until his successor is appointed and qualified, unless sooner discharged by the said commission. Each appointee before entering upon the duties of his office shall take and subscribe to the oath of office as provided by law. The manager shall with the advice and consent of the commission, have authority to pay for such temporary assistance as may be needed in giving instruction in first aid to the injured and similar technical subjects, and such other temporary assistants and porters as may be needed from time to time to properly carry on the work of said rescue stations and such rescue cars as may be installed in connection with said stations, but not more than one extra assistant and one porter shall be employed for each rescue car.

SEC. 9. The commission shall prepare a biennial report to the Governor and the General Assembly with necessary illustrations showing the work performed and money expended by the mine rescue service; and the State Board of Contracts is hereby directed to print and bind said reports promptly, and to provide all necessary printing for the Mine Rescue Commission out of the appropriations for such board of contracts.

SEC. 2. The title of said Act shall be amended to read as follows:

An act to establish and maintain in the coal fields of Illinois mine fire fighting and rescue stations.

SECOND AMENDATORY ACT, 1913.

LAWS 1913. P. 433.

JUNE 27, 1913.

AN ACT to amend sections 5, 6, 8 and 9 of an Act entitled, "An Act, etc. (same as in section 1).

SECTION 1. Be it enacted, etc.: That sections 5, 6, 8 and 9 of an Act entitled, "An Act to establish and maintain in the coal fields of Illinois mine fire fighting and rescue stations," approved March 4, 1910, in force July 1, 1910, title as amended by Act approved June 5, 1911, in force July 1, 1911, be and the same are amended to read as follows:

SEC. 5. The said commission shall appoint as manager of three stations and of their work, a man experienced in mining and mine engineering. The manager shall, with the advice and consent of the said commission, appoint for each station a superintendent and an assistant. Each appointee shall serve for a term of two years and until his successor is appointed and qualified, unless sooner discharged by the said commission. Each appointee before entering upon the duties of his office shall take and subscribe to the oath of office as provided by law. The manager shall, with the advice and consent of the commission, have authority to pay for such assistants as may be needed in giving instruction in first aid to the injured and similar technical subjects, and such other assistants and porters as may be needed from time to time to properly carry on the work of said rescue stations and such rescue cars as may be installed in connection with said stations, but not more than two extra assistants and one porter shall be employed for each rescue car.

SEC. 6. The manager shall receive two hundred and fifty dollars per month; each station superintendent one hundred and twenty-five dollars per month; and each station assistant one hundred dollars per month; and each appointee shall receive his necessary and actual expenses.

SEC. 8. Whenever the manager or the superintendent of any station shall be notified by any responsible person that an explosion or accident requiring his services has occurred at any mine in the State, he shall proceed immediately

with suitable equipment and on arrival at the said mine shall superintend the work of the rescue corps in saving life and property; and he shall coöperate with the State Mine Inspector and the management of the mine in rescue work to such extent as is necessary for the protection of human life in the mine, during such time as members of the rescue corps are under ground and while there is a reasonable expectation that men entombed in the mine may be alive.

SEC. 9. The commission shall prepare a biennial report to the Governor and the General Assembly with necessary illustrations showing the work performed and money expended by the mine rescue service; and the State Board of Contracts is hereby directed to print and bind said reports promptly, and to provide all necessary printing for the Mine Rescue Commission out of the appropriations for such board of contracts.

The Secretary of State shall assign to the use of the commission, suitably furnished rooms in the State House, and shall also furnish whatever blanks, blank books, printing, stationery, instruments and supplies the commission may require in the discharge of its duties and for use of its employees.

THIRD AMENDATORY ACT, 1915.

LAWS 1915, P. 527.

JUNE 23, 1915.

AN ACT to amend sections 5, 6, 7 and 8 of an Act entitled, "An Act, etc. (same as in section 1).

SECTION 1. Be it enacted, etc.: That sections 5, 6, 7 and 8 of an Act entitled, "An Act to establish and maintain in the coal fields of Illinois, mine fire fighting and rescue stations," approved March 4, 1910, and in force July 1, 1910, title as amended by Act approved June 5, 1911, in force July 1, 1913, be amended so as to read as follows:

SEC. 5. The said commission shall appoint for each station a superintendent and assistant. Each appointee shall serve for a term of two years and until his successor is appointed and qualified, unless sooner discharged by the said commission. Each appointee before entering upon the duties of his office shall take and subscribe to the oath of office as provided by law. The commission shall have authority to pay for such assistants as may be needed in giving instruction in first aid to the injured and similar technical subjects, and such other assistants as may be needed from time to time to properly carry on the work of said rescue stations and such rescue cars and substations as may be installed in connection with said stations, but not more than two extra assistants shall be employed for each rescue car.

SEC. 6. Each station superintendent shall receive one hundred and twenty-five dollars per month; and each station assistant one hundred dollars per month; and each appointee shall receive his necessary and actual expenses.

SEC. 7. The said commission shall supervise the work at each of the three stations, shall purchase necessary supplies, and shall keep a complete record of all operations and expenditures and an invoice of all supplies on hand. The commission shall provide that at each station some representative shall be on duty or within call at all hours of day and night for each day of the year.

SEC. 8. Whenever the superintendent of any station shall be notified by any responsible person that an explosion or accident requiring his services has occurred at any mine in the State, he shall proceed immediately with suitable equipment and on arrival at the said mine shall superintend the work of the rescue corps in saving life and property; and he shall cooperate with the State Mine Inspector and the management of the mine in rescue work to such extent as is necessary for the protection of human life in the mine, during

such time as members of the rescue corps are under ground and while there is a reasonable expectation that men entombed in the mine may be alive.

MINE RESCUE STATIONS—APPROPRIATION.

LAWS 1911-12, 20, P. 40.

JUNE 6, 1912.

AN ACT To amend section one (1) of an Act entitled, "An Act, etc." (same as in section 1).

SECTION 1. Be it enacted, etc.: That section one (1) of an Act entitled, "An Act to provide for the ordinary and contingent expenses of the State Government, etc." approved June 10, 1911, in force July 1, 1911, be, and the same is hereby, amended to read as follows:

SEC. 1. That the following-named sums be, and are hereby, appropriated to meet the ordinary and contingent expenses of the State Government, etc.

* * * * *

Eighty-first. To the Mine Rescue Station Commission: For equipment and maintenance of mine-rescue stations and mine-rescue cars, and other expenses, the sum of \$30,000 per annum.

* * * * *

APPROPRIATION.

LAWS 1913, 95, P. 116.

JUNE 30, 1913.

AN ACT To provide for the ordinary and contingent expenses of the State Government, etc.

SEC. 1. Be it enacted, etc.: That the following sums, be, and are hereby, appropriated to meet the ordinary and contingent expenses of the State Government, etc.

* * * * *

Eighty-first. To the Mine Rescue Station Commission: \$35,000 per annum.

* * * * *

MINE FIRE FIGHTING EQUIPMENT.

FIRE FIGHTING EQUIPMENT.

See Mine fire fighting and rescue stations, page 28.

(Amended. See page 440.)

LAWS 1909-10, P. 84.

MARCH 8, 1910.

AN ACT to require fire fighting equipment and other means for the prevention and controlling of fires and the prevention of loss of life from fires in coal mines.

SECTION 1. Be it enacted, etc.: On and after July 1, 1910, except as herein-after in section 6 of this Act is provided, the following requirements for fire fighting equipment and other means for the prevention and controlling of fires and the prevention of loss of life from fires in coal mines shall be strictly observed by all persons, firms, corporations or associations maintaining and operating a coal mine within the State of Illinois.

SEC. 2. There shall be provided a supply of water for fighting fire underground which shall have a head from a standing body in a pipe, tank or pond. Such water supply shall be conducted into the mine in an iron or steel pipe or pipes not less than two inches in diameter, which shall have not less than two hose connections at the bottom of the hoisting shaft, and two hose connections at the bottom of the air and escapement shaft designated as such under the law, and two hose connections in each stable which is located less than five hundred (500) feet from the bottom of either of said shafts; and there shall be iron or steel pipes not less than two inches in diameter in the entries and passage-ways leading from the bottom of each of said shafts to such extent and in such position that with one (1) fifty foot length of hose the water may be carried into all such entries and passage ways within three hundred (300) feet from the bottom of each of said shafts and into the corresponding area in slope and drift mines, such area to be designated in this Act as the fire protected area: Provided, that in mines having one hundred and twenty-five (125) feet or less head at the bottom of the incoming supply pipe, the incoming pipes and the pipes having hose connections shall be not less than three (3) inches in diameter. The pipes in the mine shall have hose connections not more than fifty (50) feet apart beginning at the bottom of the incoming supply pipe or pipes.

There shall be kept constantly on hand at the bottom of each shaft where hose connections are required, in condition for immediate use, not less than two (2) fifty (50) foot lengths of one and one-half ($1\frac{1}{2}$) inch inside diameter linen hose or rubber lined cotton hose, which shall have been tested to a pressure of two hundred (200) pounds to the square inch; all of such hose and the connections therefor on the supply pipes shall have American Standard iron pipe threads. The nozzles on such hose shall be not less than three-eighths ($\frac{3}{8}$) nor more than five-eighths ($\frac{5}{8}$) inch in diameter.

Where any part of any passage way or other excavation within one hundred and fifty (150) feet of the bottom of the hoisting shaft or the air and escapement shaft designated as such under the law and in the corresponding area in slope or drift mines, is timbered, with cribbing or more than one layer of lagging not including caps or wedges, above the cross bars, there shall be two lines of automatic sprinklers on the under side of such timbering, attached to not less than one and one-half ($1\frac{1}{2}$) inch pipes connected with the fire-fighting

water supply, and such sprinklers shall not be more than ten (10) feet apart. In cribbing or lagging as last aforesaid, which is more than three (3) feet in vertical thickness, there shall be also, as near the top thereof as is practicable, automatic sprinklers connected with the water supply as last aforesaid and there shall be one such sprinkler for each eight (8) feet square of horizontal area of such cribbing or lagging.

In every underground stable, located within one thousand (1000) feet of the hoisting shaft or the air and escapement shaft designated as such under the law, there shall be not less than one (1) automatic water sprinkler for each area eight (8) feet square in said stable; such automatic sprinklers shall be connected with iron or steel pipes not less than one and one-half (1½) inches in diameter along the roof or ceiling in the stable, which shall be connected with the fire fighting water supply.

All automatic sprinklers shall be of the fusible plug type and shall not require a temperature of more than one hundred and sixty-five (165) degrees Fahrenheit to release the water.

In all underground stables other than those heretofore in this Act referred to, there shall be kept barrels full of water and two metal pails with each barrel. Such barrels shall be not more than fifty (50) feet apart, and there shall be not less than two (2) barrels full of water and two (2) metal pails with each barrel in each entry or passage way into which such stable opens and not more than fifty (50) feet from the opening of the stable. There shall also be one (1) not less than three (3) gallon chemical fire extinguisher and two (2) not less than six (6) gallon hand pump buckets in each such stable and in each entry or passage way into which such stable opens not more than fifty (50) feet from the opening of such stable. Such chemical fire extinguishers and hand pump buckets shall be kept filled and ready for use: Provided, however, that in coal mines in which less than ten (10) men are employed, in which there are no stables, in lieu of said water supply with pipes and hose, there may be substituted the following: There shall be kept within the fire protected area in each such mine, barrels full of water not more than fifty (50) feet apart, and with each barrel there shall be two metal buckets; and there shall also be kept within said area not less than six (6) gallons capacity and not less than six (6) chemical fire extinguishers of not less than three (3) gallons capacity, and said extinguishers and buckets shall be kept filled and ready for use.

A barrel within the meaning of this Act shall be any substantial vessel holding not less than fifty (50) gallons.

All mines shall have at least one, not less than three (3) gallon chemical fire extinguishers (extinguisher) and one not less than six (6) gallon hand pump bucket including those hereinbefore in this Act required, for each fifty (50) employes in the mine with a minimum of six (6) extinguishers and six (6) pump buckets, kept at convenient places designated by the mine manager throughout the mine, and such extinguishers and buckets shall be kept filled and ready for use. (Amended. See page 440.)

SEC. 3. During the cold weather months the water pipes shall be kept drained, but the supply must be kept so that by opening a valve easily accessible on top, the water will be promptly available at all times in the supply pipes underground. The water pressure in said pipes to which hose is to be connected shall not be less than twenty-four (24) pounds per square inch, nor more than seventy (70) pounds per square inch at a point not less than two hundred and fifty (250) feet from the bottom of the shaft or the corresponding position in slopes and drifts; and there shall be a pressure gauge with dial at said point.

When the water pressure in the pipes leading into the mine is higher than seventy (70) pounds per square inch at the pressure gauge, there shall be a valve on the incoming supply pipe to control the pressure into the branch pipes in the mine, and there shall be a shut-off valve on every branch pipe at the connection of such pipe with the pipe from which it leads.

SEC. 4. No underground stable, unless so constructed as to be fire-proof throughout, shall be nearer than six (6) yards to any regular traveling way and every underground stable shall have at each opening a fire-proof door with a door-frame of concrete, stone or brick laid in mortar.

Every such stable, which contains more than ten (10) stalls, shall have a cement or brick partition, with a fire-proof door therein, for each ten (10) stalls or less; or, in lieu of said partition, the stable shall be lined with cement plaster on wire lathing or other fire-proof material, where inflammable material is exposed.

All hay, bedding and feed underground, except that in the mangers and stalls, shall be kept in a closed cement, brick, stone or metal receptacle; and not more than forty-eight (48) hours' supply of hay or bedding shall be kept underground, and not more than one week's supply of grain.

All hay and bedding taken into the mine shall be baled. Hay, bedding and feed shall be taken into the mine only in a closed car or box, which shall be kept closed until the materials are removed to the receptacles provided therefor.

No open light shall be taken into an underground stable by any person.

SEC. 5. There shall be a system of party line telephones which shall include one telephone on the surface not more than one hundred (100) feet from the tibble, and one at the bottom of the hoisting shaft, or, in slope or drift mines, at the first cross entries in operation; and, in addition thereto, there shall be one telephone on each side of the mine (when) such side is in more than one thousand (1,000) feet from the bottom of the hoisting shaft, or is in one thousand (1,000) feet beyond the first cross entries in operation in slope or drift mines; and, in addition thereto, there shall be one telephone for each one hundred (100) employees, or major fraction thereof in excess of one hundred (100) employees in said mine.

There shall be no (an) electric gong signal system actuated by an electric generator current and operated from the bottom of the hoisting shaft or from the tibble in slope or drift mines. The wires shall be of not less carrying capacity than No. 12 iron wire. The gongs shall be not less than eight (8) inches in diameter. Only non-sparking bells shall be used.

In pillar and room mines there shall be a gong in one entry of each pair of entries, not more than two hundred and fifty (250) feet from the face of said entry. In long wall mines there shall be one gong on each main heading in operation not more than two hundred and fifty (250) feet from the face, and, in addition thereto, there shall be gongs on cross roads in operation off of main headings so there shall be one gong for not more than one thousand (1,000) feet of working face in operation.

In the system of signals one long ring on said electric gong shall signify "Danger, men go to the hoisting shaft;" a succession of short rings shall signify "Danger, men go to the escapement shaft." It shall be the special duty of all drivers, motormen and trip riders to notify all other drivers, motormen, trip riders or miners from whom they haul coal; and it shall be the duty of every person in the mine receiving such danger signal to cooperate in giving notice thereof to all other persons in the mine.

There shall be attached to every cage on which men are or may be hoisted or lowered, a horn or other device from which signals can be given on the cage.

Certain employes whose regular work is in or near the fire protected areas shall have graded authority and designated duties in case of fire; and rules and instructions therefor shall be included in the regular rules of the mine, and such employes shall be instructed therein by the mine manager. There shall be a fire drill of such employes not less often than once in two weeks, and the pipes, connections, hose and electric signals shall be tested at such drills.

SEC. 6. The following requirements also shall apply to all coal mines developed within the State of Illinois after the passage of this Act :

(a) The hoisting shaft and the air and escapement shaft designated as such under the law in shaft mines and the air and escapement shaft nearest the main opening in slope or draft mines, shall be of fire-proof construction, except that cage guides may be wood: Provided, that this section shall not apply to shafts in actual course of construction at the time this Act takes effect.

(b) The roof of the passage ways leading from the bottom of the hoisting shaft and the air and escapement shaft designated as such under the law, within a distance of three hundred (300) feet from the bottom of either of said shafts, shall be constructed of fire-proof material and only fire-proof materials shall be used in the walls, except that the coal rib or pillar may be used as a wall in such passage ways.

(c) All underground stables and the opening therein shall be constructed of fire proof material throughout.

(d) At mines constructed in conformity with the requirements of this section of this Act, the fire fighting equipment described in section 2, and the electric gongs and the fire drill described in section 5 of this Act shall not be required, except that there shall be kept at convenient places designated by the mine manager, throughout each mine, one not less than three (3) gallon chemical fire extinguisher and one not less than six (6) gallon hand pump bucket, for each fifty (50) employes in the mine with a minimum of six (6) extinguishers and six (6) pump buckets, and such extinguishers and buckets shall be kept filled and ready for use.

In mines constructed in accordance with the provisions of this section 6, in addition to the telephone (telephones) required by this Act to be installed inside of the mine, there shall be one (1) gong not less than twelve (12) inches in diameter with non-sparking bell, located near each telephone inside the mine, actuated by electric generator current operated from the bottom of the hoisting shaft or from the tippie in slope and drift mines. On becoming aware of any serious danger requiring the inside employes to come out of the mine, it shall be the duty of the person having charge of the outside telephone immediately to ring the danger signal on the gongs and it shall be the duty of all persons who hear such signal or receive information thereof to cooperate in giving notice thereof to all other persons in the mine. (Amended. See page 440.)

SEC. 7. Any wilful neglect, refusal or failure to obey the requirements or provisions of this Act, or willfully giving a false danger signal or tampering with any of the appliances required by the provisions of this Act, shall be deemed a misdemeanor, punishable by a fine of not less than fifty dollars (\$50) and not to exceed two hundred (Dollars) (\$200), or by imprisonment in the county jail for a period not exceeding three (3) months, or both, in the discretion of the court.

Upon final conviction of any mine manager or any miner, under the provisions of this Act, his certificate of competency shall be thereby invalidated; and it shall be the duty of the State Mining Board in the case of a mine manager of the miners' examining board which shall have issued such certificate in the case of a minor, (miner) to cancel and revoke the certificate of

competency of the person so convicted; and such person shall not be entitled to receive another certificate of competency within three (3) months from the date of such cancellation and revocation.

For the purpose of securing an efficient enforcement of this Act, each State Mine Inspector shall make a written request upon the county board of supervisors or of commissioners in counties not under township organization, for each county in which coal is produced, for the appointment of a county mine inspector. Every State Mine Inspector shall authorize, in writing each county mine inspector within his district to assume and discharge all the powers of a State Mine Inspector in said county, with respect to compliance with the provisions of this Act. Every county mine inspector shall devote as much of his time as may be necessary to inspecting the mines in his county with a view to ascertaining whether the provisions of this Act are being complied with; and no county board shall limit the time which a county mine inspector may devote to a proper compliance with this provision, but this provision shall not be held to lessen the duty of a state mine inspector under the general mining law of the State.

If any county mine inspector shall find that any provision of this Act is being violated, it shall be his duty to file a sworn complaint before any court of competent jurisdiction, stating the facts within his knowledge in such case and asking that the person charged with such violation be bound over to the next grand jury for said county; and it shall be the duty of the State's Attorney for the county in which such violation occurs to prosecute such complaint as provided by law in other State cases.

Each county mine inspector shall report at least once a month to the State Mine Inspector for the district in which such county is located, stating the mines he has examined, the violations of this Act which he has discovered and the complaints he has filed under the provisions of this Act.

If the county mine inspector shall fail to file a complaint, as herein required, of a violation of this Act which he shall have reported to the State Mine Inspector, in all other cases of violation of this Act which shall have come to the knowledge of a State Mine Inspector in the discharge of his duties, it shall be the duty of such State Mine Inspector to file a sworn complaint before any court of competent jurisdiction, stating the facts reported to him by the county mine inspector, or coming to his knowledge in the discharge of his duties, and asking that the person charged with such violation be bound over to the next grand jury for said county; and it shall be the duty of the State's attorney for the county in which such violation occurs to prosecute such complaint as provided by law in other State cases.

If any State Mine Inspector or any county mine inspector shall willfully fail, neglect or refuse to file a complaint as herein required, or shall willfully disregard the duties required of him by the provisions of this Act, a sworn complaint may be filed by any person having knowledge of the facts, before any court of competent jurisdiction, charging said county mine inspector or said State Mine Inspector, as the case may be, with nonfeasance in office and asking that such inspector be bound over to the next grand jury for said county, and the State's Attorney for the county in which such violation occurs shall prosecute such complaint as provided by law in other State cases.

Upon final conviction for nonfeasance in office under the provisions of this Act, of any State Mine Inspector or any county mine inspector, his certificate of qualification or of competency, as the case may be, shall be thereby invalidated and he shall become disqualified from holding such office, and such person shall not be entitled to receive another certificate of qualification or of

competency, as the case may be, within three (3) months from the date of such final conviction.

SEC. 8. Whereas, An emergency exists; therefore, this Act shall be in force and effect from and after its passage.

FIRST AMENDATORY ACT, 1911.

LAWS 1911, P. 419.

JUNE 7, 1911.

AN ACT to amend sections, 2, 4, 5, 6, and 7 of an Act entitled, "An Act to require fire fighting equipment and other means for the prevention and controlling of fires and the prevention of loss of life from fires in coal mines," approved March 8, 1910, in force March 8, 1910.

SECTION 1. Be it enacted, etc.: That sections 2, 4, 5, 6 and 7 of an Act entitled, "An Act to require fire fighting equipment and other means for the prevention and controlling of fires and the prevention of loss of life from fires in coal mines," approved March 8, 1910, in force March 8, 1910, be and the same are amended to read as follows:

SEC. 2. (a) There shall be provided a supply of water for fighting fire underground which shall have a head from a standing body in a pipe, tank or pond.

(b) Such water supply shall be conducted into the mine in an iron or steel pipe or pipes not less than two inches in diameter, which shall have not less than two hose connections at the bottom of the hoisting shaft, and two hose connections at the bottom of the air and escapement shaft designated as such under the law, and two hose connections in each stable which is located less than five hundred (500) feet from the bottom of either of said shafts; and there shall be iron or steel pipes not less than two inches in diameter in the entries and passageways leading from the bottom of each of said shafts to such extent and in such position that with one (1) fifty foot length of hose the water may be carried into all such entries and passage ways within three hundred (300) feet from the bottom of each of said shafts and into the corresponding area in slope and drift mines such area to be designated in this Act as the fire protected area.

(c) Provided, that in mines having one hundred and twenty-five (125) feet or less head at the bottom of the incoming supply pipe, the incoming pipes and the pipes having hose connections shall be not less than three (3) inches in diameter. The pipes in the mine shall have hose connections not more than fifty (50) feet apart beginning at the bottom of the incoming supply pipe or pipes.

(d) There shall be kept constantly on hand at the bottom of each shaft where hose connections are required, in condition for immediate use, not less than two (2) fifty (50) foot lengths of one and one-half ($1\frac{1}{2}$) inch inside diameter linen hose or rubber-lined cotton hose, which shall have been tested to a pressure of two hundred (200) pounds to the square inch; all of such hose and the connections therefor on the supply pipes shall have American Standard iron pipe threads. The nozzles on such (hose) shall be not less than three-eighths ($\frac{3}{8}$) nor more than five-eighths ($\frac{5}{8}$) inch in diameter.

(e) Where any part of any passageway or other excavation within one hundred and fifty (150) feet of the bottom of the hoisting shaft or the air and escapement shaft designated as such under the law and in the corresponding area in slope or drift mines, is timbered, with cribbing or more than one layer of lagging not including caps or wedges, above the cross bars, there shall be two lines of automatic sprinklers on the under side of such timbering, attached to not less than one and one half ($1\frac{1}{2}$) inch pipes connected with the fire fighting water supply, and such sprinklers shall not be more than ten (10) feet apart.

(f) In cribbing or lagging as last aforesaid, which is more than three (3) feet in vertical thickness, there shall be also, as near the top thereof as is practicable, automatic sprinklers connected with the water supply as last aforesaid and there shall be one such sprinkler for each eight (8) feet square of horizontal area of such cribbing or lagging.

(g) In every underground stable, located within one thousand (1,000) feet of the hoisting shaft or the air and escapement shaft designated as such under the law, there shall be not less than one (1) automatic water sprinkler for each area eight (8) feet square in said stable; such automatic water sprinklers shall be connected with iron or steel pipes not less than one and one-half (1½) inches in diameter along the roof or ceiling in the stable, which shall be connected with the fire fighting water supply.

(h) All automatic sprinklers shall be of the fusible plug type and shall not require a temperature of more than one hundred and sixty-five (165) degrees Fahrenheit to release the water.

(i) In all underground stables other than those heretofore in this Act referred to, there shall be kept barrels full of water and two metal pails with each barrel. Such barrels shall be not more than fifty (50) feet apart, and there shall be not less than two (2) barrels full of water and two (2) metal pails with each barrel in each entry or passageway into which such stable opens and not more than fifty (50) feet from the opening of the stable.

(j) There shall also be one (1) not less than three (3) gallon chemical fire extinguishers and two (2) not less than (6) gallon handpump buckets in each stable and in each entry or passageway into which such stable opens not more than fifty (50) feet from the opening of such stable: Provided, that in mines employing ten (10) men or less underground, the chemical fire extinguishers shall not be required. Such chemical fire extinguishers and hand-pump buckets shall be kept filled and ready for use.

(k) Provided, however, that in coal mines in which less than ten (10) men are employed, in which there are no stables, in lieu of said water supply with pipes and hose, there may be substituted the following: There shall be kept within the fire protected area in each such mine, barrels full of water not more than fifty (50) feet apart, and with each barrel there shall be two metal buckets; and there shall also be kept within said area not less than six (6) hand-pump buckets of not less than six (6) gallons capacity, and said buckets shall be kept filled and ready for use.

(1) A barrel within the meaning of this Act shall be any substantial vessel holding not less than fifty (50) gallons.

(m) All mines shall have at least one, not less than (3) gallon chemical fire extinguisher, and one not less than six (6) gallon hand-pump bucket, including those hereinbefore in this Act required, for each fifty (50) employees in the mine with a minimum of six (6) extinguishers and six (6) pump buckets, kept at convenient places designated by the mine manager throughout the mine, and such extinguishers and buckets shall be kept filled and ready for use: Provided, that in mines employing ten (10) men or less underground, the chemical fire extinguishers shall not be required.

SEC. 4. (a) No underground stable, unless so constructed as to be fire-proof throughout, shall be nearer than six (6) yards to any regular traveling way, and every underground stable shall have at each opening a fireproof door with a door frame of concrete, stone or brick laid in mortar.

(b) Every such stable, which contains more than ten (10) stalls, shall have a cement or brick partition, with a fireproof door therein, for each ten (10) stalls or less; or, in lieu of said partition, the stable shall be lined with cement

plaster or wire lathing or other fireproof material, where inflammable material is exposed.

(c) All hay, bedding and feed underground, except that in the manger and stalls, shall be kept in a closed cement, brick, stone or metal receptacle; and not more than forty-eight (48) hours' supply of hay or bedding shall be kept underground, and not more than one week's supply of grain.

(d) All hay and bedding taken into the mine shall be baled. Hay, bedding and feed shall be taken into the mine only in a closed car or box, which shall be kept closed until the materials are removed to the receptacles provided therefor.

(e) No light with an unprotected flame shall be taken into an underground stable by any person.

SEC. 5. (a) There shall be a system of party line telephones which shall include one telephone on the surface not more than two hundred (200) feet from the tippie, and one at the bottom of the hoisting shaft, or, in slope or drift mines at the first cross entries in operation; and, in addition thereto, there shall be one telephone at each inside parting. Telephone lines shall be constructed in a workmanlike manner and shall be repaired promptly when necessary.

(b) On becoming aware of any serious danger requiring the inside employees to come out of the mine, it shall be the duty of the person having charge of the outside or inside telephone immediately to give notice of the danger to the other telephone stations; and it shall be the duty of all persons who receive information thereof to cooperate in giving notice thereof to all other persons in the mine. It shall be the special duty of all drivers, motormen and trip riders to notify all other drivers, motormen, trip riders or miners from whom they haul coal, of any danger requiring them to leave the mine.

(c) Certain employees whose regular work is in or near the fire protected areas shall have graded authority and designated duties in case of fire; and rules and instructions therefor shall be included in the regular rules of the mine, and such employees shall be instructed therein by the mine manager.

(d) There shall be a fire drill of such employees not less often than once in two weeks, and the pipes, connections and hose shall be tested at such drills.

SEC. 6. The following requirements also shall apply to all coal mines developed within the State of Illinois after the passage of this Act: Provided, that paragraph(s) (a) and (b) shall not apply to mines where ten (10) men or less are employed.

(a) The hoisting shaft and the air and escapement shaft designated as such under the law in shaft mines and the air and escapement shaft nearest the main opening in slope or drift mines, shall be of fireproof construction, except that cage guides may be wood: Provided, that this section shall not apply to shafts in actual course of construction at the time this Act takes effect.

(b) The roof and walls of the passageways leading from the bottom of the hoisting shaft and the air and escapement shaft designated as such under the law, within a distance of three hundred (300) feet from the bottom of either of said shafts, shall be of fireproof construction, except that the coal rib or pillar may be used as a wall in such passageways.

(c) All underground stables and the openings therein shall be of fireproof construction.

(d) At mines constructed in conformity with the requirements of this section of this Act, the fire fighting equipment described in section 2, and the fire drill described in section 5 of this Act shall not be required, except that there shall be kept at convenient places designated by the mine manager, throughout each mine, one not less than three (3) gallon chemical fire extinguisher and one not less than six (6) gallon hand-pump bucket, for each fifty (50) employees

in the mine with a minimum of six (6) extinguishers and six (6) pump buckets, and such extinguishers and buckets shall be kept filled and ready for use: Provided, that in mines employing ten (10) men or less underground, the chemical fire extinguishers shall not be required.

SEC. 7. (a) Any wilful neglect, refusal or failure to obey the requirements or provisions of this Act, or wilfully giving a false danger signal or tampering with any of the appliances required by the provisions of this Act, shall be deemed a misdemeanor, punishable by a fine of not less than fifty dollars (\$50) and not to exceed two hundred dollars (\$200), or by imprisonment in the county jail for a period not exceeding three (3) months, or both, in the discretion of the court.

(b) Upon final conviction of any mine manager or any miner, under the provisions of this Act, his certificate of competency shall be thereby invalidated; and it shall be the duty of the State Mining Board in the case of a mine manager of the miners' examining board which shall have issued such certificate in the case of a miner, to cancel and revoke the certificate of competency of the person so convicted; and such person shall not be entitled to receive another certificate of competency within three (3) months from the date of such cancellation and revocation.

(c) If any State Mine Inspector, or any county mine inspector shall find that any provision of this Act is being violated, it shall be his duty to file a sworn complaint before any court of competent jurisdiction, stating the facts within his knowledge in such case and asking that the person charged with such violation be bound over to the next grand jury for said county; and it shall be the duty of the State's attorney for the county in which such violation occurs to prosecute such complaint as provided by law in other State cases.

Each county mine inspector shall report at least once a month to the State Mine Inspector for the district in which said county (mine inspector) is working, stating the mines he has examined, the violations of this Act which he has discovered and the complaints he has filed under the provisions of this Act.

(d) If the county mine inspector shall fail to file a complaint, as herein required, of a violation of this Act which he shall have reported to the State Mine Inspector, and in all other cases of violation of this Act which shall have come to the knowledge of a State Mine Inspector in the discharge of his duties it shall be the duty of such State Mine Inspector to file a sworn complaint before any court of competent jurisdiction, stating the facts reported to him by the county mine inspector, or coming to his knowledge in the discharge of his duties, and asking that the person charged with such violation be bound over to the next grand jury for said county; and it shall be the duty of the State's attorney for the county in which such violation occurs to prosecute such complaint as provided by law in other State cases.

(e) If any State Mine Inspector or any county mine inspector shall wilfully fail, neglect or refuse to file a complaint as herein required, or shall wilfully disregard the duties required of him by the provisions of this Act, a sworn complaint may be filed by any person having knowledge of the facts, before any court of competent jurisdiction, charging said county mine inspector or said State Mine Inspector, as the case may be, with nonfeasance in office and asking that such inspector be bound over to the next grand jury for said county, and the State's attorney for the county in which such violation occurs shall prosecute such complaint as provided by law in other State cases.

Upon final conviction for nonfeasance in office under the provisions of this Act, of any State Mine Inspector or any county mine inspector, his certificate of qualification or of competency, as the case may be, shall be thereby invalidated and he shall become disqualified from holding such office, and such

person shall not be entitled to receive another certificate of qualification or of competency, as the case may be, within three (3) months from the date of such final conviction.

(SEC. 2.) SEC. 8. Whereas an emergency exists, therefore, this Act shall be in force and effect from and after its passage.

SECOND AMENDATORY ACT, 1913.

LAWS 1913, P. 434.

JUNE 26, 1913.

AN ACT to amend sections 2 and 6 of an Act entitled, "An Act, etc. (same as in section 1).

SECTION 1. Be it enacted, etc.: That sections 2 and 6 of an Act entitled, "An Act to require fire fighting equipment and other means for the prevention and controlling of fires and the prevention of loss of life from fires in coal mines," approved and in force March 8, 1910, as amended by Act approved and in force June 7, 1911, be and the same are hereby amended so as to read as follows:

SEC. 2. (a) There shall be provided a supply of water for fighting fire underground which shall have a head from a standing body in a pipe, tank or pond.

(b) Such water supply shall be conducted into the mine in an iron or steel pipe or pipes not less than two inches in diameter, which shall have not less than two hose connections at the bottom of the hoisting shaft, and two hose connections at the bottom of the air and escapement shaft designated as such under the law, and two hose connections in each stable which is located less than five hundred (500) feet from the bottom of either of said shafts; and there shall be iron or steel pipes not less than two inches in diameter in the entries and passageways leading from the bottom of each of said shafts to such extent and such position that with one (1) fifty foot length of hose the water may be carried into all such entries and passageways within three hundred (300) feet from the bottom of each of said shafts and into the corresponding area in slope and drift mines, such area to be designated in this Act as the fire protected area;

(c) Provided, that in mines having one hundred and twenty-five (125) feet or less head at the bottom of the incoming supply pipe, the incoming pipes and the pipes having hose connections shall be not less than three (3) inches in diameter. The pipes in the mine shall have hose connections not more than fifty (50) feet apart beginning at the bottom of the incoming supply pipe or pipes.

(d) There shall be kept constantly on hand at the bottom of each shaft where hose connections are required, in condition for immediate use, not less than two (2) fifty (50) foot lengths of one and one-half (1½) inch inside diameter linen hose or rubber-lined cotton hose, which shall have been tested to a pressure of two hundred (200) pounds to the square inch; all of such hose and connections therefor on the supply pipes shall have American standard iron pipe threads. The nozzles on such hose shall be not less than three-eighths (¾) nor more than five-eighths (⅝) inch in diameter.

(e) Where any part of any passageway or other excavation within one hundred and fifty (150) feet of the bottom of the hoisting shaft or the air and escapement shaft designated as such under the law and in the corresponding area in slope or drift mines, is timbered, with cribbing or more than one layer of lagging not including caps or wedges, above the cross bars, there shall be two lines of automatic sprinklers on the under side of such timbering, attached to not less than one and one-half (1½) inch pipes connected with the fire

fighting water supply, and such sprinklers shall not be more than ten (10) feet apart.

(f) In cribbing or lagging as last aforesaid, which is more than three (3) feet in vertical thickness, there shall be also, as near the top thereof as is practicable, automatic sprinklers connected with the water supply as last aforesaid and there shall be one such sprinkler for each eight (8) feet square or horizontal area of such cribbing or lagging.

(g) In every underground stable, located within one thousand (1,000) feet of the hoisting shaft or the air and escapement shaft designated as such under the law, there shall not be less than one (1) automatic water sprinkler for each area eight (8) feet square in said stable; such automatic sprinklers shall be connected with iron or steel pipes not less than one and one-half ($1\frac{1}{2}$) inches in diameter along the roof or ceiling in the stable, which shall be connected with the fire fighting water supply.

(h) All automatic sprinklers shall be of the fusible plug type and shall not require a temperature of more than one hundred and sixty-five (165) degrees Fahrenheit to release the water.

(i) In all underground stables other than those heretofore in this Act referred to, there shall be kept barrels full of water and two metal pails with each barrel. Such barrels shall be not more than fifty (50) feet apart, and there shall not be less than two (2) barrels full of water and two (2) metal pails with each barrel in each entry or passageway into which such stable opens and not more than fifty (50) feet from the opening of the stable.

(j) There shall also be one (1) not less than three (3) gallons chemical fire extinguishers and two (2) not less than six (6) gallon hand-pump buckets in each stable and in each entry or passageway into which such stable opens not more than fifty (50) feet from the opening of such stable: Provided, that in mines employing ten (10) men or less underground, the chemical fire extinguishers shall not be required. Such chemical fire extinguishers and hand-pump buckets shall be kept filled and ready for use.

(k) Provided, however, that in coal mines in which less than (10) men are employed, in which there are no stables, in lieu of said water supply with pipes and hose, there may be substituted the following: There shall be kept within the fire protected area in each such mine, barrels full of water not more than fifty (50) feet apart, and with each barrel there shall be two metal buckets; and there shall also be kept within said area not less than six (6) hand-pump buckets of not less than six (6) gallons capacity, and said buckets shall be kept filled and ready for use.

(l) A barrel within the meaning of this Act shall be any substantial vessel holding not less than fifty (50) gallons.

(m) All mines shall have at least one, not less than three (3) gallon chemical fire extinguisher, and one not less than six (6) gallon hand-pump bucket, including those hereinbefore in this Act required, for each fifty (50) employees in the mine with a minimum of six (6) extinguishers and six (6) pump buckets, kept at convenient places designated by the mine manager throughout the mine, and three (3) fire extinguishers of three (3) gallons each in each building located within one hundred (100) feet of any shaft, drift or slope, and such extinguishers shall be recharged once every six months and a record made of the date of recharging in the mine examiner's report book: Provided, this does not apply to buildings constructed of fire proof material. Such extinguishers and buckets shall be kept filled and ready for use: Provided, that in mines employing ten (10) men or less underground, the chemical fire extinguishers shall not be required.

SEC. 6. The following requirements also shall apply to all coal mines developed within the State of Illinois after the passage of this Act: "Provided, that paragraphs (a) and (b) shall not apply to mines where ten (10) men or less are employed."

(a) The hoisting shaft and the air and escapement shaft designated as such under the law in shaft mines and the air and escapement shaft nearest the main opening in slope or drift mines, shall be of fireproof construction, except that cage guides may be wood. All drifts and slopes that are opened after the passage of this Act must be of fireproof construction for a distance of three hundred (300) feet from the entrance: Provided, that this section shall not apply to shafts in actual course of construction at the time this Act takes effect.

(b) The roof and walls of the passageways leading from the bottom of the hoisting shaft and the air and escapement shaft designated as such under the law, within a distance of three hundred (300) feet from the bottom of either of said shafts, shall be of fireproof construction, except that the coal rib or pillar may be used as a wall in such passageways.

(c) All underground stables and the openings therein shall be of fireproof construction.

Stables in mines opened after the passage of this Act, shall not be located between the main and escapement shaft, or in direct line on the ventilating current or on passageways leading to the escapement shaft or shafts.

(d) At mines constructed in conformity with the requirements of this section of this Act, the fire fighting equipment described in section 2, and the fire drill described in section 5 of this Act shall not be required, except that there shall be kept at convenient places designated by the mine manager, throughout each mine, one not less than three (3) gallons chemical fire extinguisher and one not less than six (6) gallon hand-pump bucket, for each fifty (50) employees in the mine with a minimum of six (6) extinguishers and six (6) pump buckets, and such extinguishers and buckets shall be kept filled and ready for use: Provided, that in mines employing ten (10) men or less underground, the chemical fire extinguishers shall not be required.

THIRD AMENDATORY ACT, 1915.

LAWS 1915, P. 522.

JUNE 23, 1915.

AN ACT to amend sections 1, 2 and 6 of an Act entitled, "An Act," etc. (same as in section 1).

SEC. 1. Be it enacted, etc.: That sections 1, 2 and 6 of an Act entitled, "An Act to require fire fighting equipment and other means for the prevention and controlling of fires and the prevention of loss of lives from fires in coal mines," approved and in force March 8, 1910, as amended by Act approved and in force June 7, 1911, as amended by Act approved June 26, 1913, in force July 1, 1913, be amended to read as follows:

SEC. 1. On and after July 1, 1910, except as hereinafter in section 6 of this Act is provided, the following requirements for fire fighting equipment and other means for the prevention and controlling of fires and the prevention of loss of life from fires in coal mines shall be strictly observed by all persons, firms, corporations or associations maintaining and operating a coal mine within the State of Illinois.

SEC. 2. (a) There shall be provided a supply of water for fighting fire underground which shall have a head from a standing body in a pipe, tank or pond.

(b) Such water supply shall be conducted into the mine in an iron or steel pipe or pipes not less than two inches in diameter, which shall have not less

than two hose connections at the bottom of the hoisting shaft, and two hose connections at the bottom of the air and escapement shaft designated as such under the law, and two hose connections in each stable which is located less than five hundred (500) feet from the bottom of either of said shafts; and there shall be iron or steel pipes not less than two inches in diameter in the entries and passageways leading from the bottom of each of said shafts to such extent and such position that with one (1) fifty-foot length of hose the water may be carried into all such entries and passageways within three hundred (300) feet from the bottom of each of said shafts and into the corresponding area in slope and drift mines, such area to be designated in this Act as the fire protected area;

(c) Provided, that in mines having one hundred and twenty-five (125) feet or less head at the bottom of the incoming supply pipe, the incoming pipes and the pipes having hose connections shall be not less than three (3) inches in diameter. The pipes in the mine shall have hose connections not more than fifty (50) feet apart beginning at the bottom of the incoming supply pipe or pipes.

(d) There shall be kept constantly on hand at the bottom of each shaft where hose connections are required, in condition for immediate use, not less than two (2) fifty (50) foot lengths of one and one-half ($1\frac{1}{2}$) inch inside diameter linen hose or rubber-lined cotton hose, which shall have been tested to a pressure of two hundred (200) pounds to the square inch; all of such hose and connections therefor on the supply pipes shall have American standard iron pipe threads. The nozzles on such hose shall be not less than three-eighths ($\frac{3}{8}$) nor more than five-eighths ($\frac{5}{8}$) inch in diameter.

(e) Where any part of any passage or other excavation within one hundred and fifty (150) feet of the bottom of the hoisting shaft or the air and escapement shaft designated as such under the law and in the corresponding area in slope or drift mines, is timbered, with cribbing or more than one layer of lagging not including caps or wedges, above the cross bars, there shall be two lines of automatic sprinklers on the under side of such timbering, attached to not less than one and one-half ($1\frac{1}{2}$) inch pipes connected with the fire fighting water supply, and such sprinklers shall not be more than ten (10) feet apart.

(f) In cribbing or lagging as last aforesaid, which is more than three (3) feet in vertical thickness, there shall be also, as near the top thereof as is practicable, automatic sprinklers connected with the water supply as last aforesaid and there shall be one such sprinkler for each eight (8) feet square or horizontal area of such cribbing or lagging.

(g) In every underground stable, located within one thousand (1,000) feet of the hoisting shaft or the air and escapement shaft designated as such under the law, there shall not be less than one (1) automatic water sprinkler for each area eight (8) feet square in said stable; such automatic sprinklers shall be connected with iron or steel pipes not less than one and one-half ($1\frac{1}{2}$) inches in diameter along the roof or ceiling in the stable, which shall be connected with the fire fighting water supply.

(h) All automatic sprinklers shall be of the fusible plug type and shall not require a temperature of more than one hundred and sixty-five (165) degrees Fahrenheit to release the water.

(i) In all underground stables other than those heretofore in this Act referred to, there shall be kept barrels full of water and two metal pails with each barrel. Such barrels shall be not more than fifty (50) feet apart, and there shall not be less than two (2) barrels full of water and two (2) metal

pails with each barrel in each entry or passageway into which such stable opens and not more than fifty (50) feet from the opening of the stable.

(j) There shall also be one (1) not less than two and one-half ($2\frac{1}{2}$) gallons chemical fire extinguishers and two (2) not less than six (6) gallon hand-pump buckets in each stable and in each entry or passageway into which such stable opens not more than fifty (50) feet from the opening of such stable: Provided, that in mines employing ten (10) men or less underground, the chemical fire extinguishers shall not be required. Such chemical fire extinguishers and hand-pump buckets shall be kept filled and ready for use.

(k) Provided, however, that in coal mines in which less than ten (10) men are employed, in which there are no stables, in lieu of said water supply with pipes and hose, there may be substituted the following: There shall be kept within the fire protected area in each such mine, barrels full of water not more than fifty (50) feet apart, and with each barrel there shall be two metal buckets; and there shall also be kept within said area not less than six (6) hand-pump buckets of not less than six (6) gallons capacity, and said buckets shall be kept filled and ready for use.

(l) A barrel within the meaning of this Act shall be any substantial vessel holding not less than fifty (50) gallons.

(m) All mines shall have at least one, not less than two and one-half ($2\frac{1}{2}$) gallon chemical fire extinguisher, and one not less than six (6) gallon hand-pump bucket, including those hereinbefore in this Act required, for each fifty (50) employees in the mine with a minimum of six (6) extinguishers and six (6) pump buckets, kept at convenient places designated by the mine manager throughout the mine, and three (3) fire extinguishers of two and one-half ($2\frac{1}{2}$) gallons each in each building located within one hundred (100) feet of any shaft, drift or slope, and such extinguishers shall be recharged once every six months and a record made of the date of recharging in the mine examiner's report book: Provided, this does not apply to buildings constructed of fire proof material. Such extinguishers and buckets shall be kept filled and ready for use: Provided, that in mines employing ten (10) men or less underground, the chemical fire extinguishers shall not be required.

SEC. 6. The following requirements also shall apply to all coal mines developed within the State of Illinois after the passage of this Act: "Provided that paragraphs (a) and (b) shall not apply to mines where ten (10) men or less are employed."

(a) The hoisting shaft and the air and escapement shaft designated as such under the law in shaft mines and the air and escapement shaft nearest the main opening in slope or drift mines, shall be of fire proof construction, except that cage guides may be wood. All drifts and slopes that are opened after the passage of this Act must be of fire proof construction for a distance of three hundred (300) feet from the entrance: Provided, that this section shall not apply to shafts in actual course of construction at the time this Act takes effect.

(b) The roof and walls of the passageways leading from the bottom of the hoisting shaft and the air and escapement shaft designated as such under the law, within a distance of three hundred (300) feet from the bottom of either of said shafts, shall be of fire proof construction, except that the coal rib or pillar may be used as a wall in such passageways.

(c) All underground stables and the openings therein shall be of fire proof construction. Stables in mines opened after the passage of this Act shall not be located between the main and escapement shaft, or in direct line on the ventilating current or on passageways leading to the escapement shaft or shafts.

(d) At mines constructed in conformity with the requirements of this section of this Act, the fire fighting equipment described in section 2, and the fire drill described in section 5 of this Act shall not be required, except that there shall be kept at convenient places designated by the mine manager, throughout each mine, one not less than two and one-half ($2\frac{1}{2}$) gallons chemical fire extinguisher and one not less than six (6) gallon hand-pump bucket, for each fifty (50) employees in the mines with a minimum of six (6) extinguishers and six (6) pump buckets, and such extinguishers and buckets shall be kept filled and ready for use: Provided, that in mines employing ten (10) men or less underground, the chemical fire extinguishers shall not be required.

MINE INSPECTORS.

INSPECTORS TO FURNISH INFORMATION TO GEOLOGISTS.

LAWS 1891, P. 167. (FOR ANNOTATIONS SEE PAGE 245.) **JUNE 18, 1891.**

(Repealed by Act of June 15, 1895, Laws 1895, p. 252. See page 162.)

AN ACT to require inspectors of mines to furnish information to the State Geologist, and to provide for paying the expenses of the same.

SECTION 1. Be it enacted, etc.: That in addition to the duties now prescribed by law, it shall hereafter be the duty of the State inspectors of coal mines to procure for, and under the direction of, the State Geologist, a true record of the various strata through which coal shafts are sunk, or borings for coal, oil, gas or artesian water are made in their respective districts; also to determine the altitude of the top of said shafts or bore holes, above some specified point on the nearest railroad, or other point whose elevation may be readily ascertained; and also to determine the dip of the coal stratum in all mines which are being operated. The additional duties herein prescribed for said inspector shall be discharged at such times and in such manner as not to interfere with their primary duties as inspectors of mines, and they shall report the results of their observations, from time to time, to the State Geologist.

SEC. 2. The actual and necessary traveling expenses of said inspectors, in the discharge of their public duties, shall be allowed and paid from the same fund and in the same manner as that in which compensation for their services is now paid, and upon itemized quarterly accounts, verified by affidavit, and approved by the secretary of the Commissioners of Labor Statistics and the Governor.

DUTY AS TO WEIGHING COAL.

LAWS 1895, P. 255.

(SEE PAGE 393.)

JUNE 4, 1895.

AN ACT to make mine inspectors, inspectors of weights and measures at coal mines.

SECTION 1. Be it enacted, etc.: That mine inspectors in this State shall be ex officio inspectors of weights and measures of scales used to weigh coal in their respective districts in this State, and they are hereby empowered to, and it shall be their duty to test the scales in such district used to weigh coal mined in coal mines or sold, at least once every six months, to ascertain whether such scales correctly measure the weight of such coal, and if they find any defects or irregularities in such scales which prevent correct measurements of weights, they shall call attention of the mine owner, agent or operator to the same, and direct the same to be at once properly adjusted and corrected.

SEC. 2. If the owner, agent or operator of any coal mine shall refuse to allow such inspectors to properly test the scales used at such mines, or shall fail or refuse to put such scales into proper condition to correctly weigh coal, upon being notified so to do by the inspector of his district, such owner, agent or operator shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not exceeding five hundred (500) dollars; or confined in the county jail not exceeding six months, or both, in the discretion of the court. And it shall be the duty of the State's Attorneys in their respective counties to prosecute any person violating the provisions of this act, the same as in other cases of misdemeanor.

REVISIONS AND AMENDMENTS.

NOTE.—For parts of section 12 of the Act of April 18, 1899; of section 5 of the Act of June 6, 1911; of section 5 of the Amendatory Act of June 27, 1913; and of section 5 of the Amendatory Act of June 28, 1915, relating to State inspectors as sealers of weights and measures, see pages 76, 83, 89, 192.

REVISION OF 1899.

LAWS 1899, P. 301.

APRIL 18, 1899.

AN ACT to revise the laws in relation to coal mines and subjects relating thereto, and providing for the health and safety of persons employed therein.

NOTE.—Paragraphs (g) and (h) of sec. 12 of this Act are the same as paragraphs (j) and (k) of the Act of 1913 below.

REVISION OF 1911.

LAWS 1911, P. 388.

JUNE 6, 1911.

AN ACT to revise the laws in relation to coal mines and subjects relating thereto, and providing for the health and safety of persons employed therein.

NOTE.—Paragraphs (j) and (k) of sec. 5 of this Act are the same as paragraphs (j) and (k) of the Act of 1913 below.

FIRST AMENDATORY ACT.

LAWS 1913, P. 412.

JUNE 27, 1913.

AN ACT to amend sections 1, 2, 3, 5, 6, 10, 11, 14, 16, 18, 19, 20 and 21 of an Act entitled "An Act to revise the laws in relation to coal mines and subjects relating thereto, and providing for the health and safety of persons employed therein," approved June 6, 1911, in force July 1, 1911.

SECTION 1. Be it enacted, etc.:

That sections 1, 2, 3, 5, 6, 10, 11, 14, 16, 18, 19, 20, and 21 of An Act entitled, "An Act to revise the laws in relation to coal mines and subjects relating thereto, and providing for the health and safety of persons employed therein," approved June 6, 1911, in force July 1, 1911, be and the same are hereby amended so as to read as follows:

SEALER OF WEIGHTS.—(j) State inspectors are hereby made ex officio sealer of weights and measures in their respective districts, and as such are empowered to test all scales used to weigh coal at coal mines. Upon the written request of any mine owner or operator, or of ten coal miners employed at any one mine, it shall be the duty of the inspector to test any scale or scales at such mine against which complaint is directed, and if he shall find that they or any of them do not weigh correctly, he shall call the attention of the mine owner or operator to the fact, and direct that said scale or scales be at once overhauled and readjusted so as to indicate only true and exact weights, and he shall forbid the further operation of such mine until such scales are adjusted. In the event that such tests shall conflict with any test made by any county sealer of weights, or under and by virtue of any municipal ordinance or regulation, then the test by such mine inspector shall prevail.

TEST WEIGHTS.—(k) For the purpose of carrying out the provisions of this Act, each State inspector shall be furnished by the State with a complete set of standard weights suitable for testing the accuracy of tract [track] scales and of all smaller scales at mines, said test weights to be paid for on bills of particulars, certified by the Secretary of State and approved by the Governor. Such test weights shall remain in the custody of the inspector for use at any point within his district, and for any amounts expended by him for the storage, transportation or handling of the same, he shall be fully reimbursed upon making entry of the proper items in his expense voucher. (See page 386.)

SECOND AMENDATORY ACT.

LAWS 1915, P. 505.

JUNE 28, 1915.

AN ACT to amend sections 2, 3, 5, 6, 7, 9, 10, 15, 21 and 25 of An Act entitled, "An Act," etc. (same as in section 1). (See page 238.)

SECTION 1. Be it enacted, etc.:

That sections 2, 3, 5, 6, 7, 9, 10, 15, 21, and 25 of An Act entitled, "An Act to revise the laws in relation to coal mines and subjects relating thereto, and providing for the health and safety of persons employed therein," approved June 6, 1911, in force July 1, 1911, approved June 26, 1913, in force July 1, 1913, be and the same are hereby amended so as to read as follows:

SPECIAL SURVEY.—(j) The State inspector of mines, or the State Mining Board, may order a survey to be made of the workings of any mine in addition to the regular annual survey, the results to be extended on the maps of the same and the copies thereof, whenever the safety of the workmen, unlawful injury to the surface, unlawful encroachment upon adjoining property, or the safety of an adjoining mine requires it. If the State inspector of mines or the State Mining Board shall believe any map required by this Act is materially inaccurate or imperfect, the State inspector or State Mining Board is authorized to make, or cause to be made, a correct survey and map at the expense of the operator, the cost recoverable as for debt: Provided, if such test survey shows the operator's map to be correct, the State shall be liable for the expense incurred, payable in such manner as other State accounts incurred by the State Mining Board.

PENALTIES FOR FAILURE.—(k) If an operator of any mine refuses or willfully neglects, for a period of three months, to furnish the said State inspector, the county recorder and the manager of the rescue stations the map or plan of such mine, or a copy thereof, or of the extensions thereto, as provided for in this Act, such operator shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than ten dollars nor more than one hundred dollars, in the discretion of the court, and shall stand committed to the county jail until such fine is paid, and, in addition thereto, the State inspector or State Mining Board is hereby authorized to make, or cause to be made an accurate map or plan of such mine at the expense of the operator thereof; and the cost of the same may be recovered by law from the operator in the same manner as other debts by suit, in the name of the State inspector or the State Mining Board, and for his or its use, and copies of the same shall be filed by him or the board, one each with said recorder and Mine Rescue Station Commission.

APPROPRIATION.

LAWS 1893, P. 52.

JUNE 15, 1893.

AN ACT to provide for the ordinary and contingent expenses of the State government until the expiration of the first fiscal quarter after the adjournment of the next regular session of the General Assembly.

SECTION 1. Be it enacted, etc.: That the following named sums, or so much thereof as may be necessary, respectively, for the purposes hereinafter named, be and are hereby appropriated to meet the ordinary and contingent expenses of the State government until the expiration of the first fiscal quarter after the adjournment of the next regular session of the General Assembly: * * *

Forty-first. To the State Inspectors of Coal mines, for defraying traveling expenses while in the discharge of their public duties, the sum of \$1000 per annum, or so much thereof as may be necessary, to be paid on itemized vouchers approved by the Governor.

Forty-second. To the State Board of Examiners for Mine Inspectors and Mine Managers for the per diem and expenses of the board in conducting examina-

tions as to the qualifications of those holding or desiring positions as managers of coal mines and of those desiring appointments as State inspectors of mines, the sum of \$1,500 per annum or so much thereof as may be necessary, payable upon proper vouchers approved by the Governor.

BOARD OF EXAMINERS—APPROPRIATIONS.

LAWS 1895, P. 51.

JUNE 15, 1895.

AN ACT to provide for the ordinary and contingent expenses of the State government until the expiration of the fiscal quarter after the adjournment of the next regular session of the General Assembly.

SECTION 1. Be it enacted, etc.: That the following named sums, or so much thereof as may be necessary, respectively, for the purposes hereinafter named, be and are hereby appropriated to meet the ordinary and contingent expenses of the State Government until the expiration of the first fiscal quarter after the adjournment of the General Assembly: * * *

44. The State Board of Examiners for Mine Inspectors and Mine Managers, for the per diem and expenses of the board in conducting examinations as to the qualifications of those holding or desiring positions as managers of coal mines, and of those desiring appointments as State inspectors of mines, the sum of \$1,500 per annum, or so much thereof as may be necessary, payable upon proper vouchers approved by the Governor.

* * * * *

APPROPRIATIONS.

LAWS 1897, 52, P. 61.

JUNE 5, 1897.

AN ACT to provide for the ordinary and contingent expenses, etc., (same as former act).

45. Appropriation \$3,000.

LAWS 1899, 55, P. 62.

APRIL 19, 1899.

AN ACT to provide for the ordinary and contingent expenses, etc., (same as former act).

Appropriation \$7,000.

LAWS 1901, 78, P. 85.

MAY 10, 1901.

AN ACT to provide for the ordinary and contingent expenses, etc., (same as former act).

Appropriation \$7,500, including: Salary of stenographer \$720, secretary of board \$1,500, State Mine Inspectors \$2,000.

LAWS 1903, 69, P. 76.

MAY 16, 1903.

AN ACT to provide for the ordinary and contingent expenses, etc., (same as former act).

Appropriation \$6,000, including: Stenographer \$720, State Mine Inspectors, \$3000 (expenses).

BOARD OF EXAMINERS—SALARIES.

LAWS 1905, P. 330.

MAY 16, 1905.

AN ACT to amend section 10 of an act entitled, "An act, etc. (same as in section 1). (Act approved April 18, 1899.)

SEC. 10. Members of State Mining Board \$5 per day, not more than 100 days; mining engineer \$5 per day not more than 125 days; expenses for all.

Secretary \$1,500 and expenses.

APPROPRIATIONS.

LAWS 1905, 62, P. 69.

MAY 18, 1905.

AN ACT to provide for the ordinary and contingent expenses of the State government, etc.

* * * * *

Thirty-seventh. Commissioners of Labor Statistics, for expenses, etc., \$11,000.

State Mining Inspectors, for expenses, \$4,500 per annum, not over \$600 to any one inspector.

* * * * *

LAWS 1907-8, 17, P. 25 (ADJOURNED SESS.).

JUNE 4, 1907.

AN ACT to provide for the ordinary and contingent expenses of the State Government, etc.

* * * * *

Forty-fifth. State Mine Inspectors, \$6,000 per annum, not over \$600 to any one inspector.

* * * * *

LAWS 1909, 77, P. 85.

JUNE 16, 1909.

AN ACT to provide for the ordinary and contingent expenses of the State Government, etc.

SECTION 1. Be it enacted, etc.: That the following named sums be, and are hereby, appropriated to meet the ordinary and contingent expenses of the State government, etc.: * * *

Forty-fifth. To the State Mine Inspectors, for actual expenses incurred in the discharge of duties, \$6,000 per annum, not to exceed \$600 to any one inspector.

* * * * *

LAWS 1911, P. 69.

MAY 10, 1911.

AN ACT to provide for a deficiency in the traveling and other expenses of the State inspectors of coal mines for the fiscal year ending June 30, 1911.

SECTION 1. Be it enacted, etc.: That the sum of \$6,000 or as much thereof as may be necessary, be, and is hereby appropriated for the purpose of meeting the traveling and other necessary expenses of the State inspectors of coal mines incurred in the discharge of their official duties, for the fiscal year ending June 30, A. D. 1911.

SEC. 2. Whereas, Said sum of money is immediately required, therefore, an emergency exists and this Act shall take effect from and after its passage.

LAWS 1911, 90, P. 101.

JUNE 10, 1911.

AN ACT to provide for the ordinary and contingent expenses of the State government until the expiration of the first fiscal quarter after the adjournment of the next regular session of the General Assembly.

SEC. 1. Be it enacted by the People, etc. * * *

Forty-fifth. To the State Mine Inspectors for actual expenses incurred in the discharge of their duties as provided by law, the sum of \$12,000 per annum, of which sum not to exceed \$1,000 per annum shall be paid to any one inspector.

INSTRUMENTS USED IN MINES—APPROPRIATION.

LAWS 1911-12, 20, P. 23.

JUNE 6, 1912.

AN ACT to amend section one (1) of an Act entitled, "An Act, etc. (same as in section 1).

SECTION 1. Be it enacted, etc.: That section one (1) of an Act entitled, "An Act to provide for the ordinary and contingent expenses of the State Govern-

ment, etc," approved June 10, 1911, in force July 1, 1911, be and the same is hereby amended to read as follows:

SEC. 1. That the following named sums be, and are hereby, appropriated to meet the ordinary and contingent expenses of the State Government, etc. * * *

Thirteen. To the Secretary of State, for the purchase of safety lamps, hydrometers, barometers, anemometers, and such other instruments as the needs of the service of the State Mine Inspectors requires (require) as provided by law, the sum of \$1,000 or so much thereof as may be necessary.

APPROPRIATIONS.

LAWS 1913, 95, P. 107.

JUNE 30, 1913.

AN ACT to provide for the ordinary and contingent expenses of the State Government, etc.

SEC. 1. Be it enacted, etc.: That the following sums be, and are hereby, appropriated to meet the ordinary and contingent expenses of the State Government, etc. * * *

Forty-fifth. To the State Mine Inspectors, \$12,000 per annum, of which sum not to exceed \$1,000 per annum shall be paid to any one inspector.

* * * * *

LAWS 1915, 203, P. 215.

JUNE 29, 1915.

AN ACT to provide for the ordinary and contingent expenses of the State Government.

SECTION 1. Be it enacted, etc.: That the following named sums be, and are hereby appropriated to meet the ordinary and contingent expenses of the State Government, etc.: * * *

Fortieth. To the State Mine Inspectors, for actual expenses incurred in the discharge of their duties, as provided by law, the sum of \$12,000 per annum, etc., of which sum not to exceed \$1,200 per annum shall be paid to any one inspector.

* * * * *

MINE MANAGERS.

FOREMAN, PIT BOSS, FIRE BOSS, HOISTING ENGINEER.

EXAMINATION AND EMPLOYMENT.

LAWS 1891, P. 168. (FOR ANNOTATIONS, SEE PAGE 245.) JUNE 18, 1891.

AN ACT to provide for the examination of mine managers, and to regulate their employment.

SECTION 1. Be it enacted, etc.: That in order to secure greater efficiency in the management of coal mines, and a higher standard of qualifications in those who have immediate responsibility for the health and safety of persons employed in coal mines, it shall be unlawful, except as hereinafter provided, after the first day of January, 1892, for any person to assume or attempt to discharge the duties of mine manager, at any coal mine equipped for shipping coal by rail or water, or any mine whose output may be twenty-five or more tons per day, unless he shall hold such a certificate as to his qualifications for that position as may be required by this act from the State board of mine examiners: Provided, that the term mine manager is here intended to mean any person who is charged with the general direction of the underground work, or of both the underground and top work, of any coal mine, and who is commonly known and designated as mine boss or foreman or pit boss.

SEC. 2. The certificates provided for in the first section of this act may be either certificates of competency or certificates of service, and any person may acquire such certificate by appearing before the State board of examiners, appointed by the commissioners of labor for the examination and inspection of mines, and submitting to such an examination as to his competency or length of service as may be prescribed by this act and the said examiners.

SEC. 3. Meetings of said boards shall be held at such times and places, and shall be conducted under such rules, conditions and regulations as the members of said boards may deem most efficient for carrying into effect the spirit and intent of this act. Said board shall, after each of its several meetings, make report of its action and of its term of service to the State commissioners of labor, and the sum of three dollars a day and traveling expenses for each day devoted to the service required by this act, which shall not exceed eighty days in all during any one year, shall be paid to each of the members of said Board upon vouchers sworn to by them and approved by the Governor and the Auditor of Public Accounts is hereby authorized to draw his warrant on the Treasurer, payable out of any money in the treasury not otherwise appropriated, in favor of the said members of the board of examiners for the amounts thus shown to be due them.

SEC. 4. Certificates of qualification or competency shall be conferred upon any citizen of the United States who shall submit to and satisfactorily pass such an examination as to his fitness for the duties and responsibilities of mine manager as said examiners shall provide; and certificates of service shall be conferred upon any citizen of the United States who shall present satisfactory evidence of having had at least four years' practical experience in coal mines, and of having served as mine manager continuously and satisfactorily and for the same person or firm for one year next preceding the passage of this act,

but the holder of such certificate shall not be eligible to employment by any other person or firm until he shall also have obtained a certificate of competency upon examination. The certificates herein provided for shall be issued by the State board of examiners and be registered in the office of the commissioners of labor at the capitol, where a record of all certificates issued shall be kept. Such certificates shall contain the full name, age and place of birth of the recipient, and also the length and nature of his previous service in and about coal mines. All applicants for the certificates herein provided for shall, before being examined, pay to the board the sum of one dollar each, and those who receive certificates shall pay an additional sum of two dollars each, all of which fees shall be accounted for and covered into the State treasury.

SEC. 5. After January 1, 1892, no owner, operator, or agent of any mine to which this act applies shall employ any mine manager who does not hold either the certificate of competency or service herein provided for, and if any accident shall occur in any mine in which a mine manager shall be employed who has no certificate of competency or service as required by this act, by which any miner shall be killed or injured, he or his heirs shall have right of action against such operator, owner or agent, and shall recover the full value of the damages sustained: Provided, that in case no suitable or satisfactory certified mine manager can be obtained by any operator at the date herein specified, such operator may place any competent man in temporary charge of his mine to act as mine manager until such time as a suitable certified manager may be found: Provided, that the time be not more than three months from the date aforesaid. The said board of examiners shall be furnished by the Secretary of State with the necessary blanks, blank books and stationery. Any violation of the provisions of this act shall be deemed a misdemeanor and be punished accordingly.

AMENDATORY ACT, 1895.

LAWS 1895, P. 255.

JUNE 21, 1895.

AN ACT to amend paragraph "A" of section 4 of an act entitled "An act," etc. (same as in section 1).

SECTION 1. Be it enacted, etc.: That paragraph "A" of section 4 of 'An act to provide for the examination of mine managers, and to regulate their employment,' approved June 18, 1891, in force July 1, 1891, be and the same is hereby amended to read as follows:

Certificates of qualification or competency shall be conferred upon any citizen of the United States who shall submit to and satisfactorily pass an examination as to his fitness for the duties and responsibilities of the position of mine manager as said examiners shall provide: Provided, said person applying to be qualified as mine manager shall have actually served and worked for at least four years as a practical coal miner, and said certificates of qualification or competency shall be conferred upon any citizen of the United States who shall present satisfactory evidence of having had at least four years of practical experience as a coal miner, and, of having served as mine manager continuously and satisfactorily for the same person, firm or corporation for one year, and all persons in this State, holding certificates of service, as provided in the act relating to examination of mine managers before this amendment, shall be entitled to have said certificates of qualification or competency conferred upon them, and it shall be the duty of the State Board of Examiners to so confer said certificate, which shall entitle and empower the holder thereof to act in the capacity of mine manager of any mine and for any person, firm or corporation in the State of Illinois.

All acts or parts of acts in conflict with this act are hereby repealed.

CERTIFICATES TO FIRE BOSSES AND HOISTING ENGINEERS.

LAWS 1895, P. 250.

JUNE 21, 1895.

AN ACT to provide for the examinations of fire bosses and hoisting engineers at all coal mines in this State, where such services are necessary, and to regulate their employment.

SECTION 1. Be it enacted, etc.: That in order to secure the health and safety of persons employed in coal mines, that it shall be unlawful, after one year from date of this act going into effect, for any one to assume or attempt to discharge the duties of hoisting engineer or fire boss at any coal mine in this State, where the service of hoisting engineer or fire boss is necessary, unless he shall hold such a certificate as to his qualification for that position as may be required by this act, from the State Board of Mine Examiners.

SEC. 2. The certificates, provided for in the first section of this act, may be either certificates of competency or certificates of service, and any person may acquire such certificate by appearing before the State Board of Examiners, appointed by the commissioners of labor for the examination and inspection of mines, and submitting to such an examination as to his competency or length of service as may be prescribed by this act and the said examiners.

a. Certificates of qualification or competency shall be conferred on any citizen of the United States who shall submit to and satisfactorily pass such an examination as to his fitness for the duties and responsibilities of hoisting engineers and fire bosses as the Board of Mine Examiners shall provide, and certificates of service shall be conferred on any citizen of the United States who shall present satisfactory evidence of having had at least 4 years' practical experience as such fire boss or hoisting engineer, and of having served as such fire boss or hoisting engineer continuously and satisfactorily for the same person or firm for one (1) year next preceding the passage of this act, but the holder of such certificate shall not be eligible to employment by any other person or firm until he shall also have obtained a certificate of competency upon examination. Before certificates are issued to any one under this act, it will be necessary for the applicants for such certificates to file with the Board of Examiners certificates of good moral character, signed by at least ten (10) reputable citizens in the community where the applicant resides.

b. The certificates herein provided for shall be issued by the State Board of Examiners and be registered in the office of the commissioners, of labor, at the capitol, where a record of all certificates issued shall be kept. Such certificates shall contain the full name, age and place of birth of the recipient, and also the length of his previous service as such fire boss or hoisting engineer.

c. All applicants for the certificates herein provided for shall, before being examined, pay to the Board of Examiners the sum of one dollar each, and those who receive certificates shall pay an additional sum of two dollars each, all of which fees shall be accounted for and covered into the State treasury.

SEC. (3) 4. After July 1, 1896, no owner, operator or agent of any coal mine in this State where hoisting engineers are required to hoist coal or men out of the mine, or where fire or explosive gas generates, where the employment of a fire boss is necessary to examine the mine as to whether or not it is safe for men to enter and pursue their calling without danger from explosive gas, shall not employ any person whatever as hoisting engineer or fire boss unless they have a certificate of competency or service herein provided for. And if any accident shall occur at or in any mine where a hoisting engineer or fire boss is employed who has no certificate of competency or service as required by this act, by which any person shall be killed or injured, he, or his heirs, shall have a right of action against such operator, owner or agent, and shall recover the full value or damages sustained.

MINERALS.

LEAD—SALES REGULATED.

LAWS 1861, P. 140.

FEBRUARY 22, 1861.

AN ACT to regulate the purchase and sale of Lead Mineral.

SECTION 1. Be it enacted, etc.: That from and after the passage of this act all persons purchasing lead mineral, in this State, shall keep a book or books, to be open, at all reasonable times, to the inspection of miners, owners of mineral lands, and smelters of lead ore, in which book shall be kept an account of all lead mineral purchased by the person or persons keeping such book, stating clearly the amount, from whom, the time when purchased, and the place where it was dug. Said books to be kept at the usual place of business of the purchasers.

SEC. 2. That all persons buying or bartering for lead mineral and having no place of business at which to keep a book or books, as provided in section one of this act, shall make return thereof to the nearest smelter of lead ore to the land or place of procuring the mineral, stating to said smelter the amount, from whom and where obtained, when purchased and from what diggings the same was taken. And the smelter to whom such return is made, shall minute it upon his book kept under the provisions of this act.

SEC. 3. That no person shall be allowed to purchase lead mineral from any child under twelve years of age. And the picking and carrying away lead mineral from the land or diggings of another, without his or her consent, shall be deemed larceny, and punished accordingly.

SEC. 4. Any person to whom lead mineral shall be offered for sale shall inquire from whom and from what ground the same was procured; and if the person offering it for sale refuse to answer such inquiries satisfactorily then the person to whom it is offered shall not be allowed to buy it.

SEC. 5. Any person refusing to show the books of account, hereinbefore provided to be kept, when requested by any person authorized to see the same, shall forfeit and pay, for each offense, the sum of twenty-five dollars. And any persons violating any of the other provisions of this act shall forfeit and pay, for the first offense, the sum of five dollars and costs; and for the second and every subsequent offense, the sum of ten dollars and costs, one-half to the informer and the other half to the school fund of the school district where the suit is prosecuted—the informant, in all cases, to be a competent witness; and the penalties to be recoverable by action of debt, before any justice of the peace of the county where the offense is committed.

SEC. 6. This act to take effect and be in force from and after its passage.

CODIFIED IN REVISED STATUTES, 1874.

REVISED STATUTES 1874, P. 709.

MARCH 24, 1874.

AN ACT to revise the law in relation to mines.

* * * * *

SEC. 8. RECORD OF PURCHASES OF LEAD MINERAL TO BE KEPT.—Every person purchasing lead mineral shall keep a book, in which he shall keep an account of all lead mineral purchased by him, stating clearly the amount, from whom and time when purchased, and the place where it was dug; and for the purpose of ascertaining such facts, he shall make diligent inquiry of the person offering

such mineral for sale, and if satisfactory answers are not given it shall not be lawful for him to buy the same.

SEC. 9. BOOK OPEN FOR INSPECTION.—Such purchaser shall keep such book at his usual place of business, open at all reasonable times for the inspection of miners, owners of mineral lands, and smelters of lead ore.

SEC. 10. WHEN PURCHASER NO PLACE OF BUSINESS.—When any such purchaser has not a usual place of business, he shall, within twenty-four hours from the time of making any such purchase, make return to the nearest smelter of lead ore to the place of procuring the same, stating the amount thereof, when, of whom and where purchased, and from what place the same was dug or taken; and such smelter shall minute the same in his book, to be kept pursuant to this act.

SEC. 11. PURCHASE FROM CHILD UNDER 12 FORBIDDEN.—No person shall be allowed to purchase lead mineral from any child under twelve years of age.

SEC. 12. PENALTIES.—Any person who shall purchase lead mineral without keeping the book or making the entries or returns as herein provided, or shall refuse to allow their inspection as herein provided, shall forfeit for each offense the sum of \$25; and whoever violates any of the other provisions of the four preceding sections, shall forfeit for the first offense the sum of \$5 and costs, and for every subsequent offense \$10 and costs—one half to the informer, and the other half to the school fund of the school district where the suit is brought. Said penalties shall be recoverable by action of debt before any justice of the peace of the county where the offense is committed.

TRESPASS ON COAL BANKS.

LAWS 1863, P. 70.

FEBRUARY 13, 1863.

AN ACT to amend Chapter XXX of the Revised Statutes, entitled "Criminal Jurisprudence."

SECTION 1. Be it enacted, etc.: * * *

SEC. 3. If any person shall enter the coal banks of another, without the expressed or implied consent of the owner or manager thereof, after notice that such entry is prohibited, such person shall, on conviction thereof, be fined, in the discretion of the court, in any sum not exceeding five hundred dollars, or imprisoned in the county jail not more than six months.

SEC. 4. If any person shall enter the coal banks of another, with intent to commit any injury thereto, or by means of threats, intimidations, or other riotous or unlawful proceedings, to cause or induce any person employed therein to leave his employment, such person shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be subject to a fine not exceeding five hundred dollars, or be imprisoned in the county jail not exceeding six months, or both.

* * * * *

AMENDATORY ACT, 1873.

LAWS 1873, P. 76.

MARCH 19, 1873.

LAWS 1873-74, P. 93.

MARCH 19, 1873.

AN ACT to amend an act entitled "An Act to amend chapter 30 of the Revised Statutes, entitled 'Criminal Jurisprudence.' "

SECTION 1. Be it enacted, etc.: That an act entitled "An act to amend chapter 30 of the Revised Statutes, entitled 'Criminal Jurisprudence,' " approved February 13, 1863, be and the same is hereby amended, so as to read as follows:

* * * * *

SECTION 3. If any person shall enter the coal-banks of another without the expressed or implied consent of the owner or manager thereof, after notice

that such entry is prohibited, such person shall, on conviction thereof, be fined in any sum no exceeding five hundred dollars, or imprisonment in the county jail not more than six months.

SEC. 4. If any person shall enter the coal-banks of another with intent to commit injury thereto, or by threats, intimidations, or other unlawful proceedings to cause any person employed therein to leave his employment, such person shall be deemed guilty of a misdemeanor, and on conviction thereof be fined in any sum not exceeding five hundred dollars, or imprisoned in the county jail not exceeding six months, or both. (Repealed.)

MINERAL LANDS.

MINING OVER LINE—EXAMINATION OF MINE—SURVEY.

LAWS 1859, P. 126.

FEBRUARY 18, 1859.

AN ACT to regulate mining.

SECTION 1. Be it enacted, etc.: That upon complaint being made, on oath, before any circuit judge, or, in the absence of a circuit judge, before any judge of the county court of any of the counties of this state, by any person, the owner of any land or town lot adjacent to any lands, lots or grounds worked as lead, coal or iron mines, that the said person or persons, so making complaint, have reasonable grounds to suspect and do suspect that such miner or miners is trespassing upon the lands or lots of such person, so making complaint, it shall be the duty of said judge to appoint some competent and suitable person to descend into said mines and make such examinations and surveys therein as may be necessary to ascertain whether such mines are worked upon the lands or lots of such person or persons making said complaint.

SEC. 2. It shall be the duty of such miner or miners to allow such person, so appointed, at all reasonable times, to descend into said mines and make such survey or examination as may be necessary to determine whether such mines are worked upon the property of the said person making such complaint or not; and any obstruction, knowingly and willfully placed in the way of such person, so appointed by the judge, with the intent to prevent his entry into any mines, rooms or galleries therein, and his examination of said mines, by any person or persons, their workmen, agents or servants, shall be punished to the same extent and in the same manner as is now provided by law for resisting a sheriff in serving legal process.

SEC. 3. All costs and expenses attending said survey and examination of said mines, under this act, shall be advanced and paid by the person making said complaint, who shall have the right to recover the same and have them taxed as costs in any action for the recovery of damages against such miner or miners, in which he may receive damages for trespass in the working of such mines, and it shall be the duty of the court to tax such expenses in the bill of costs in any action where such damages may be recovered.

NOTE.—The substance of this act was incorporated as sections 2, 3 and 4, Revised Statutes 1874, p. 709.

MINING OVER LINE—TRESPASS.

REVISED STATUTES 1874, P. 709.

MARCH 24, 1874.

AN ACT to revise the laws in relation to mines.

* * * * *

SEC. 2. TRESPASS—SURVEYOR APPOINTED.—If the owner of and land adjacent to any lands worked as lead, coal, iron or other mine, shall make complaint, in writing, verified by affidavit, to the judge of any court of record in the county where the land is situated, that he has reasonable grounds to believe, and does believe, that the owner or operator of such mine is trespassing upon

his lands by mining thereon, it shall be the duty of the judge to appoint some county surveyor or other competent and suitable person to descend into such mine, and make such examinations and surveys as may be necessary to ascertain whether the same is being worked upon the land of the person making the complaint.

SEC. 3. POWERS OF SURVEYOR—PENALTIES.—The person so appointed shall have the right at all reasonable times, to descend into such mine and make such examinations and surveys; and whoever shall willfully obstruct or hinder such person from entering into any such mine, or any gallery or place therein, or from making any such examination or survey, shall, for each offense, be fined not exceeding \$200, to be recovered before any justice of the peace of the county. Any person accepting any such appointment, and failing or refusing to make such survey upon the request of the petitioner, may be proceeded against as for a contempt of court, or he may be fined not exceeding \$500.

SEC. 4. EXPENSES.—The expense of such examination and survey shall be paid by the person making the complaint, but if such person shall recover damages against the owner or operator of such mine for working the same upon his land, he shall have the right to have such expenses added to the damages.

SEC. 5. PENALTY FOR TRESPASS.—Whoever shall willfully trespass upon the land of another by mining thereon, shall, in addition to the damages now authorized by law, be liable to a penalty not to exceed \$500, which may be recovered in an action of debt by the owner thereof, in any court of competent jurisdiction.

MINERS' EXAMINING BOARD—STATE MINING BOARD.

EXAMINATION OF INSPECTORS—APPOINTMENT.

LAWS 1899, P. 301. (FOR ANNOTATIONS, SEE PAGE 245.) APRIL 18, 1899.

AN ACT to revise the laws in relation to coal mines and subjects relating thereto, and providing for the health and safety of persons employed therein.

NOTE.—Sections 6, 7, 8, 9, and 10 of the act of April 18, 1899 (Laws 1899, p. 301), are inserted under this subject. For original act see page 187.

SEC. 6. (a) For the purpose of securing efficiency in the mine inspection service, and a high standard of qualification in those who have the management and operation of coal mines, the State Commissioners of Labor shall appoint a board of examiners, to be known as the State Mining Board, whose duty it shall be to make formal inquiry into and pass upon the practical and technical qualifications and personal fitness of men seeking appointments as State Inspectors of Mines, and of those seeking certificates of competency as mine managers, as hoisting engineers and as mine examiners. This board shall be composed of five members, two of whom shall be practical coal miners; one an expert mining engineer, and who shall, when practicable, be also a hoisting engineer, and two shall be coal operators.

DATE AND TERM OF APPOINTMENT.—(b) Their appointment shall date from July 1, 1899, and they shall serve for a term of two years, or until their successors are appointed and qualified; they shall organize by the election of one of their number as president, and some suitable person, not a member, as secretary, after which they shall all be sworn to a faithful performance of their duties.

SUPPLIES FURNISHED BY SECRETARY OF STATE.—(c) The Secretary of State shall assign to the use of the board, suitably furnished rooms in the State House for such meetings as are held at the Capitol, and shall also furnish whatever blanks, blank books, printing and stationery, the board may require in the discharge of its duties.

FREQUENCY OF MEETINGS.—(d) The board shall meet at the Capitol in regular session on the second Tuesday in September of the year 1899, and biennially thereafter, for the examination of candidates for appointment as State Inspectors of Mines. For the examination of persons seeking certificates of competency as mine managers, hoisting engineers and mine examiners, the board shall hold meetings at such times and places within the State as shall, in the judgment of the members, afford the best facilities to the greatest number of probable candidates. Special meetings may also be called, whenever, for any reason, it may become necessary to appoint one or more inspectors. Public notice shall be given through the press or otherwise, announcing the time and place at which examinations are to be held.

RULES OF PROCEDURE.—(e) The examinations herein provided for shall be conducted under such rules, conditions and regulations as the members of the board shall deem most efficient for carrying into effect the spirit and intent of this Act. Such rules, when formulated, shall be made a part of the permanent record of the board, and such of them as relate to candidates shall be published for their information and governance prior to each examination; they shall

also be of uniform application to all candidates. (Amended May 14, 1903, and May 27, 1907. Page 65.)

EXAMINATIONS.

SEC. 7. FOR INSPECTORS.—(a) Persons coming before the State Mining Board as candidates for appointment as State Inspectors of mines must produce evidence satisfactory to the board that they are citizens of this State, at least thirty years of age, that they have had a practical mining experience of ten years, and that they are men of good repute and temperate habits; they must also submit to and satisfactorily pass an examination as to their practical and technical knowledge of mining engineering and mining machinery and appliances, of the proper development and operation of coal mines, of ventilation in mines, of the nature and properties of mine gases, of the geology of the coal measures in this State, and of the laws of this State relating to coal mines.

NAMES CERTIFIED TO THE GOVERNOR.—(b) At the close of each examination for inspectors the board shall certify to the Governor the names of all candidates who have received a rating above the minimum fixed by the rules of the board as properly qualified for the duties of inspectors.

INSPECTORS APPOINTED.—(c) From those so named, the Governor shall select and appoint ten State inspectors of mines; that is to say, one inspector for each of the ten inspection districts provided for in this Act; or more, if, in the future, additional inspection districts shall be created, and their commissions shall be for a term of two years from October first: Provided, That any one who has satisfactorily passed two of the State examinations for inspectors, and who has served acceptably as State inspector for two full terms, upon making written application to the board setting forth the facts, shall also be certified to the Governor as a person properly qualified for appointment; but no man shall be eligible for appointment as a State inspector of mines who has any pecuniary interest in any coal mine, either as owner or employé.

FOR MINE MANAGERS.—(d) Persons coming before the board for certificates of competency as mine managers must produce evidence satisfactory to the board that they are citizens of this State, at least twenty-four years of age, that they have had at least four years' practical mining experience, and that they are men of good repute and temperate habits; they must also submit to and satisfactorily pass such an examination as to their experience in mines and in the management of men, their knowledge of mine machinery and appliances, the use of surveying and other instruments, the properties of mine gases, the principles of ventilation and the specific duties and responsibilities of mine managers, as the board shall see fit to impose.

FOR HOISTING ENGINEERS.—(e) Persons seeking certificates of competency as hoisting engineers must produce evidence satisfactory to the board that they are citizens of the United States, at least twenty-one years of age, that they have had at least two years' experience as fireman or engineer of a hoisting plant, and are of good repute and temperate habits. They must be prepared to submit to and satisfactorily pass an examination as to their experience in handling hoisting machinery, and as to their practical and technical knowledge of the construction, cleaning and care of steam boilers, the care and adjustment of hoisting engines, the management and efficiency of pumps, ropes and winding apparatus, and their knowledge of the laws of this State in relation to signals and the hoisting and lowering of men at mines.

FOR MINE EXAMINERS.—(f) Persons seeking certificates of competency as mine examiners must produce evidence satisfactory to the board that they are citizens of this State, at least 21 years of age, and of good repute and temperate habits.

They must be prepared to submit to and satisfactorily pass an examination as to their experience in mines generating dangerous gases, their practical and technical knowledge of the nature and properties of fire-damp, the laws of ventilation, the structure and uses of the safety lamps, and the laws of this State relating to safeguards against fires from any sources in mines. (Amended.)

CERTIFICATES.

SEC. 8. ISSUED BY THE BOARD.—(a) The certificates provided for in this Act shall be issued under the signature and seal of the State Mining Board, to all those who receive a rating above the minimum fixed by the rules of the board; such certificates shall contain the full name, age and place of birth of the recipient and the length and nature of his previous service in or about coal mines.

REGISTER TO BE PRESERVED.—(b) The board shall make and preserve a record of the names and addresses of all persons to whom certificates are issued, and at the close of each examination shall make report of the same to the commissioners of labor, who shall cause a permanent register of all certificated persons to be made and kept for public inspection in the office of the State Bureau of Labor Statistics in the State Capitol.

EFFECT OF CERTIFICATES.—(c) The certificates provided for in this Act shall entitle the holders thereof to accept and discharge the duties for which they are hereby declared qualified, at any mine in this State, where their services may be desired.

FOREIGN CERTIFICATES.—(d) The board may exercise its discretion in issuing certificates of any class, but not without examination, to persons presenting, with proper credentials, certificates, issued by competent authority in other states.

UNLAWFUL TO EMPLOY OTHER THAN CERTIFICATED MINE MANAGERS.—(e) It shall be unlawful for the operator of any coal mine to employ, or suffer to serve, as mine manager at his mine, any person who does not hold a certificate of competency issued by a duly authorized board of examiners of this State: Provided, that whenever any exigency arises by which it is impossible for any operator to secure the immediate services of a certificated mine manager, he may place any trustworthy and experienced man, subject to the approval of the State inspector of the district, in charge of his mine, to act as temporary mine manager for a period of not exceeding thirty days.

UNLAWFUL TO EMPLOY OTHER THAN CERTIFICATED HOISTING ENGINEER.—(f) It shall be unlawful for the operator of any mine to employ, or suffer to serve, as hoisting engineer for said mine, any person who does not hold a certificate of competency issued by a duly authorized board of examiners of this State, or to permit any other to operate his hoisting engine except for the purpose of learning to operate it, and then only in the presence of the certificated engineer in charge, and when men are not being hoisted or lowered: Provided, that whenever any exigency arises by which it is impossible for any operator to secure the immediate services of a certificated hoisting engineer, he may place any trustworthy and experienced man, subject to the approval of the State inspector of the district, in charge of his engines, to act as temporary engineer, for a period not to exceed thirty days.

UNLAWFUL TO EMPLOY OTHER THAN CERTIFICATED MINE EXAMINERS.—(g) It shall be unlawful for the operator of any mine to employ or suffer to serve, as mine examiner, any person who does not hold a certificate of competency issued by the State Mining Board: Provided, that any one holding a mine manager's certificate may serve as mine examiner. Anyone holding a certificate as fire

boss, on presentation of the same to the State Mining Board, may have it exchanged for a mine examiner's certificate.

CANCELLATION OF CERTIFICATES.—(h) The certificates of any mine manager, hoisting engineer or mine examiner, may be cancelled and revoked by the State Mining Board whenever it shall be established to the satisfaction of said board that the holder thereof has become unworthy of official endorsement, by reason of violations of the law, intemperate habits, manifest incapacity, abuse of authority, or for other causes satisfactory to said board: Provided, that any person against whom charges or complaints are made shall have an opportunity to be heard in his own behalf. And he shall have thirty days' notice in writing of such charges.

SEC. 9. CREDENTIALS.—An applicant for any certificate herein provided for, before being examined, shall register his name with the secretary of the board, and file with him the credentials required by this Act, to-wit: An affidavit as to all matters of fact establishing his right to receive the examination, and a certificate of good character and temperate habits, signed by at least ten of the citizens who know him best in the place in which he lives.

Each candidate, before receiving the examination, shall pay to the secretary of the board the sum of one dollars as an examination fee, and those who pass the examination for which they are entered, before receiving their certificates, shall also pay to the secretary the further sum of two dollars each as a certificate fee. All such fees shall be duly accounted for by the board, and covered into the State treasury at the close of each fiscal year.

SEC. 10. COMPENSATION OF MEMBERS—SALARY OF SECRETARY.—The members of the State Mining Board, except the mining engineer, shall receive as compensation for their services the sum of \$5.00 each per day, for a term not exceeding 100 days in any one year, and whatever sums are necessary to reimburse them for such traveling expenses as may be incurred in the discharge of their duties.

The salary of the secretary shall be determined by the board, but shall in no case exceed the sum of one thousand dollars per annum, and he shall be reimbursed for any amounts expended for actual and necessary traveling expenses in the discharge of his duties. All such salaries and expenses of the board and of its secretary shall be paid upon vouchers duly sworn to by each and approved by the president of the board and by the Governor, and the Auditor of Public Accounts is hereby authorized to draw his warrants on the State Treasurer for the amounts thus shown to be due, payable out of any money in the treasury not otherwise appropriated.

AMENDATORY ACT.

LAWS 1903, P. 250.

MAY 14, 1903.

AN ACT to amend section 6 of an act entitled, "An act, etc., (same as in section 1).

SECTION 1. Be it enacted, etc.: That section 6 of an act entitled, "An act to revise the law in relation to coal mines and subjects relating thereto, and providing for the health and safety of persons employed therein," approved April 18, 1899, in force July 1, 1899, be, and the same is hereby amended to read as follows:

SEC. 6. For the purpose of securing efficiency in mine inspection service, and a high standard of qualifications in those who have the management and operation of coal mines, the State Commissioners of Labor shall appoint a board of examiners, to be known as the State Mining Board, whose duty it shall be to make formal inquiry into and pass upon the practical and technical qualifica-

tions and personal fitness of men seeking appointments as State inspectors of mines, and of those seeking certificates of competency as mine managers, hoisting engineers and as mine examiners.

(a) This board shall be composed of five members, two of whom shall be practical coal miners, one a practicing hoisting engineer, and two coal operators, one of whom shall be an expert mining engineer.

(b) Their appointment shall date from July 1, 1899, and they shall serve for a term of two years, or until their successors are appointed and qualified; they shall organize by the election of one of their number as president, and some suitable person, not a member as secretary, after which they shall all be sworn to a faithful performance of their duties.

(c) The Secretary of State shall assign to the use of the board, suitably furnished rooms in the State House for such meetings as are held at the Capitol, and shall also furnish whatever blanks, blank books, printing and stationery, the board may require in the discharge of its duties.

(d) The board shall meet at the Capitol in regular session on the second Tuesday in September of the year 1899, and biennially thereafter, for the examination of candidates for appointment as State inspectors of mines; for the examination of persons seeking certificates of competency as mine managers, hoisting engineers and mine examiners. The board shall hold meetings at such times and places within the state as shall, in the judgment of the members, afford the best facilities to the greatest number of probable candidates. Special meetings may also be called by the Commissioners of Labor whenever, for any reason, it may become necessary to appoint one or more inspectors. Public notice shall be given through the press or otherwise, announcing the time and place at which examinations are to be held.

(e) The examinations herein provided for shall be conducted under such rules, conditions and regulations as the members of the board shall deem most efficient for carrying into effect the spirit and intent of this act. Such rules, when formulated, shall be made a part of the permanent record of the board, and such of them as relate to candidates shall be published for their information and governance prior to each examination; they shall also be of uniform application to all candidates.

INSPECTORS—AMENDATORY ACT.

LAWS 1905, P. 325.

MAY 12, 1905.

AN ACT to amend section 7 of an act entitled, "An act to revise the laws in relation to coal mines, and subjects relating thereto, and providing for the health and safety of persons employed therein," approved April 18, 1899, in force July 1, 1899.

SECTION 1. Be it enacted, etc.: That section 7 of an act entitled, "An act to revise the laws in relation to coal mines and subjects relating thereto and providing for the health and safety of persons employed therein," approved April 18, 1899, in force July 1, 1899, be amended to read as follows:

SEC. 7. INSPECTORS APPOINTED.—From those so named, the Governor shall select and appoint ten State inspectors of mines; that is to say, one inspector for each of the ten inspection districts provided for in this act; or more, if, in the future, additional inspection districts shall be created, and their commissions shall be for a term of two years from October first: Provided, that any one who has satisfactorily passed two of the State examinations for inspectors, and who has served acceptably as State inspector for two full terms, upon making written application to the board setting forth the facts, shall also be certified to the Governor as a person properly qualified for appointment; but no

man shall be eligible for appointment as a State inspector of mines who has any pecuniary interest in any coal mine, either as owner or employe.

NOTE.—The validity of this amendatory act is doubted for the reason that the amendatory section sets out but one paragraph of the original section. The constitution, section 13, article 4, requires that when a section of a previous law is amended, the section "shall be inserted at length in the new act."

ANNOTATIONS.

MINER—CERTIFICATE OF COMPETENCY.

A person receiving a certificate of competency from the mine examining board under this act has the right to seek employment as a "coal miner" merely and not as a "shot-firer."

Kulvie v. Bunsen Coal Co., 161 Ill. App. 617 p. 620.

AMENDATORY ACT.

LAWS 1907, P. 387.

MAY 27, 1907.

AN ACT to amend sections 6, 7, 8, 9, 18, and 19 of an Act entitled, "An Act," etc. (same as in section 1).

SECTION 1. Be it enacted, etc.: That sections six (6), seven (7), eight (8), nine (9), eighteen (18), nineteen (19), of an Act entitled, "An Act to revise the laws in relation to coal mines and subjects relating thereto, and providing for the health and safety of persons employed therein," approved April 18, 1899, in force July 1, 1899, as amended by Acts approved May 13, 14, 1903, in force July 1, 1903, and as amended by Acts approved May 12, 13, 16, 1905, in force July 1, 1905, be and the same is hereby amended so as to read as follows, respectively:

THE STATE MINING BOARD.

SEC. 6. MANNER AND PURPOSE OF APPOINTMENT.—For the purpose of securing efficiency in the mine inspection service, and a high standard of qualification in those who have the management and operation of coal mines, the Governor, with the advice and consent of the Senate, shall appoint a board of examiners, to be known as the State Mining Board, whose duty it shall be to make formal inquiry into and pass upon the practical and technical qualifications and personal fitness of men seeking appointments as State Inspectors of Mines, and of those seeking certificates of competency as mine managers, as hoisting engineers and as mine examiners.

COMPOSITION OF BOARD.—(a) This Board shall be composed of five members, two of whom shall be practical coal miners, one a practicing hoisting engineer, and two coal operators, one of whom shall be an expert mining engineer.

DATE AND TERM OF APPOINTMENT.—(b) Their appointment shall date from July 1, 1899, and they shall serve for a term of two years, or until their successors are appointed and qualified; they shall organize by the election of one of their number as president, and some suitable person, not a member, as secretary, after which they shall all be sworn to a faithful performance of their duties.

SUPPLIES FURNISHED BY SECRETARY OF STATE.—(c) The Secretary of State shall assign to the use of the board, suitably furnished rooms in the State House for such meetings as are held at the capitol, and shall also furnish whatever blanks, blank books, printing and stationery, the board may require in the discharge of its duties.

FREQUENCY OF MEETINGS.—(d) The board shall meet at the capitol in regular session on the second Tuesday in September of the year 1899, and biennially thereafter, for the examination of candidates for appointment as State inspectors of mines. For the examination of persons seeking certificates of competency as mine managers, hoisting engineers and mine examiners, the board shall hold meetings at such times and places within the State as shall, in the judgment of the members afford the best facilities to the greatest number of probable candidates. Special meetings may also be called, whenever, for any reason, it may become necessary to appoint one or more inspectors. Public notice shall be given through the press or otherwise, announcing the time and place at which examinations are to be held.

RULES OF PROCEDURE.—(e) The examinations herein provided for shall be conducted under such rules, conditions and regulations as the members of the board shall deem most efficient for carrying into effect the spirit and intent of this Act. Such rules, when formulated, shall be made a part of the permanent record of the board, and such of them as relate to candidates shall be published for their information, and governance prior to each examination; they shall also be of uniform application to all candidates.

EXAMINATIONS.

SEC. 7. FOR INSPECTORS.—(a) Persons coming before the State Mining Board as candidates for appointment as State inspectors of mines must produce evidence satisfactory to the board that they are citizens of this State, at least thirty years of age, that they have had a practical mining experience of ten years, and that they are men of good repute and temperate habits; they must also submit to and satisfactorily pass an examination as to their practical and technical knowledge of mining engineering and mining machinery and appliances, of the proper development and operation of coal mines, of ventilation in mines, of the nature and properties of mine gases, of the geology of the coal measures in this State, and of the laws of this State relating to coal mines.

NAMES CERTIFIED TO THE GOVERNOR.—(b) At the close of each examination for inspectors the board shall certify to the Governor the names of all candidates who have received a rating above the minimum fixed by the rules of the board as properly qualified for the duties of inspectors.

INSPECTORS APPOINTED.—(c) From those named, the Governor shall select and appoint ten State inspectors of mines; that is to say, one inspector for each of the ten inspection districts provided for in this Act; or more, if, in the future, additional inspection districts shall be created, and their commissions shall be for a term of two years from October first: Provided, that any one who has satisfactorily passed two of the State examinations for inspectors, and who has served acceptably as State inspector for two full terms, upon making written application to the board setting forth the facts, shall also be certified to the Governor as a person properly qualified for appointment; but no man shall be eligible for appointment as a State inspector of mines who has any pecuniary interest in any coal mine, either as owner or employe.

FOR MINE MANAGERS.—(d) Persons coming before the board for certificates of competency as mine managers must produce evidence satisfactory to the board that they are citizens of the State of Illinois, at least twenty-four years of age, that they have had at least four years' practical mining experience, and that they are men of good repute and temperate habits; they must also submit to and satisfactorily pass such an examination as to their experience in mines and in the management of men, their knowledge of mine machinery and appli-

ances, the use of surveying and other instruments, the properties of mine gases, the principles of ventilation and the specific duties and responsibilities of mine managers, as the board shall see fit to impose.

FOR HOISTING ENGINEER.—(e) Persons seeking certificates of competency as hoisting engineers must produce evidence satisfactory to the board that they are citizens of the United States, at least twenty-one years of age, that they have had at least two years' experience as fireman or engineer of a hoisting plant, and are of good repute and temperate habits. They must be prepared to submit to and satisfactorily pass an examination as to their experience in handling hoisting machinery, and as to their practical and technical knowledge of the construction, cleaning and care of steam boilers, the care and adjustment of hoisting engines, the management and efficiency of pumps, ropes and winding apparatus, and their knowledge of the laws of this State in relation to signals and the hoisting and lowering of men at mines.

FOR MINE EXAMINERS.—(f) Persons seeking certificates of competency as mine examiners must produce evidence satisfactory to the board that they are citizens of the State of Illinois, at least twenty-one years of age, and of good repute and temperate habits. They must be prepared to submit to and satisfactorily pass an examination as to their experience in mines generating dangerous gases, their practical and technical knowledge of the nature and properties of fire-damp, the laws of ventilation, the structure and use of safety lamps, and the laws of this State relating to safeguards against fires from any source in mines.

SEC. 8. CERTIFICATES ISSUED BY THE BOARD.—(a) The certificates provided for in this Act shall be issued under the signature and seal of the State Mining Board, to all those who receive a rating above the minimum fixed by the rules of the board; such certificates shall contain the full name, age and place of birth of the recipient and the length and nature of his previous service in or about coal mines.

RECORD TO BE PRESERVED.—(b) The board shall make and preserve a record of the names and addresses of all persons to whom certificates are issued.

EFFECT OF CERTIFICATES.—(c) The certificates provided for in this Act shall entitle the holders thereof to accept and discharge the duties for which they are hereby declared qualified, at any mine in this State, where their services may be desired.

FOREIGN CERTIFICATES.—(d) The board may exercise its discretion in issuing certificates of any class, but not without examination, to persons presenting, with proper credentials, certificates issued by competent authority in other states.

UNLAWFUL TO EMPLOY OTHER THAN CERTIFICATED MINE MANAGERS.—(e) It shall be unlawful for the operator of any coal mine to employ, or suffer to serve, as mine manager at his mine, any person who does not hold a certificate of competency issued by a duly authorized board of examiners of this State: Provided, that whenever any exigency arises by which it is impossible for any operator to secure the immediate services of a certificated mine manager, he may place any trustworthy and experienced man, subject to the approval of the State inspector of the district, in charge of his mine to act as temporary mine manager for a period not exceeding thirty days.

UNLAWFUL TO EMPLOY OTHER THAN CERTIFICATED HOISTING ENGINEERS.—(f) It shall be unlawful for the operator of any mine to employ, or suffer to serve, as hoisting engineer for said mine, any person who does not hold a certificate of competency issued by a duly authorized board of examiners of this State, or to permit any other to operate his hoisting engine except for the purpose of

learning to operate it, and then only in the presence of the certificated engineer in charge, and when men are not being hoisted, or lowered: Provided, that whenever any exigency arises by which it is impossible for any operator to secure the immediate services of a certificated hoisting engineer, he may place any trustworthy and experienced man, subject to the approval of the State inspector of the district, in charge of his engines, to act as temporary engineer, for a period not to exceed thirty days.

UNLAWFUL TO EMPLOY OTHER THAN CERTIFICATED MINE EXAMINERS.—(g) It shall be unlawful for the operator of any mine to employ, or suffer to serve, as mine examiner, any person who does not hold a certificate of competency issued by the State Mining Board: Provided, that any one holding a mine manager's certificate may serve as mine examiner, and, whenever any exigency arises by which it is impossible for any operator to secure the immediate services of a certificated mine examiner, he may employ any trustworthy and experienced man, subject to the approval of the State inspector of the district, to act as temporary mine examiner for a period not to exceed thirty days. The employment of persons who do not hold certificates as mine managers, hoisting engineers, and mine examiners, shall in no case exceed the limit of time specified herein, and the State inspector shall not approve of the employment of such persons beyond the thirty day limit.

CANCELLATION OF CERTIFICATES.—(h) The certificates of any mine manager, hoisting engineer or mine examiner, may be cancelled and revoked by the State Mining Board whenever it shall be established to the satisfaction of said board that the holder thereof has become unworthy of official endorsement, by reason of violations of the law, intemperate habits, manifest incapacity, abuse of authority, or for other causes satisfactory to said board: Provided, that any person against whom charges or complaints are made shall have an opportunity to be heard in his own behalf. And he shall have thirty days' notice in writing of such charges.

CREDENTIALS.

SEC. 9. An application (applicant) for any certificate herein provided for, before being examined, shall register his name with the secretary of the board, and file with him the credentials required by this Act, to wit: An affidavit as to all matters of fact establishing his right to receive the examination, and a certificate of good character and temperate habits signed by at least ten of the citizens who know him best in the place in which he lives.

* * * * *

NOTE.—The amended sections 18 and 19 are under the appropriate title, Mining Operations, and the subtitle, State Mining Board—Seventh Amendatory Act. See page 205.

REVISED ACT—STATE MINING BOARD.

LAWS 1911, P. 388.

JUNE 6, 1911.

AN ACT to revise the laws in relation to coal mines and subjects relating thereto, and providing for the health and safety of persons employed therein.

NOTE.—Sections 1 to 6, inclusive, are included under this title. The remaining sections are under the appropriate title, Third General Revision, 1911, page 212.

SECTION 1. Be it enacted etc.: (a) That the Governor, with the advice and consent of the Senate, shall appoint a State Mining Board which shall be composed of five members, two of whom shall be practicing coal miners, one a practicing coal mine hoisting engineer, and two coal operators.

POWERS AND DUTIES OF BOARD.—(b) Said board shall be authorized, empowered and required to make formal inquiry into and pass upon the practical and technological qualifications and personal fitness of men seeking appointments as State inspectors of mines, and of those seeking certificates of com-

petency as mine managers, as hoisting engineers and as mine examiners. Said board also shall have such other powers and duties as may be prescribed by the provisions of this Act, or any other Act relating to coal mining. Said board also shall control and direct the State mine inspectors hereinafter provided for, in the discharge of their duties. Said board also shall cause to be collected statistical details relating to coal mining in the State, especially in its relations to the vital, sanitary, commercial and industrial conditions, and to the permanent prosperity of said industry; and said board shall cause such statistical details to be compiled and summarized as a report of said State Mining Board, to be known as the Annual Coal Report.

DATE AND TERM OF APPOINTMENT.—(c) Their appointment shall date from July 1, 1911, and they shall serve for a term of two years, or until their successors are appointed and qualified. They shall all be sworn to a faithful performance of their duties. One of the coal operators member of said board shall be elected as president, and one of the coal miners members of said board shall be elected as secretary. The board may appoint a chief clerk and may employ such other persons as may be necessary for the proper discharge of its powers and duties; all of whom shall perform such duties as may be prescribed by the board from time to time, and the board may from time to time also prescribe standing and other rules for the control and direction of its offices and employes and of the State mine inspectors.

SUPPLIES FURNISHED BY SECRETARY OF STATE.—(d) The Secretary of State shall assign to the use of the board, suitably furnished rooms in the State House, and shall also furnish whatever blanks, blank books, printing, stationery, instruments and supplies the board may require in the discharge of its duties, and for the use of State mine inspectors.

FREQUENCY OF MEETINGS.—(e) The board shall hold such meetings from time to time as may be necessary for the proper discharge of its duties. The board shall meet at the Capitol on the second Tuesday in September of the year 1911, and annually thereafter, for the examination of candidates for appointment as State inspectors of mines. Special examinations also may be held whenever for any reason it may become necessary to appoint one or more inspectors.

For the examination of persons seeking certificates of competency as mine managers, hoisting engineers and mine examiners, the board shall hold meetings at such times and places within the State as shall, in the judgment of the members, afford the best facilities to the greatest number of candidates.

Public notice shall be given through the press or otherwise, not less than ten days in advance, announcing the time and place at which any examinations under this section are to be held.

RULES OF PROCEDURE.—(f) The examinations herein provided for shall be conducted under rules, conditions and regulations prescribed by the board. Such rules shall be made a part of the permanent record of the board, and such of them as relate to candidates shall be, upon application of any candidate, furnished to him by the board; they shall also be of uniform application to all candidates.

COMPENSATION OF MEMBERS—SALARY OF CHIEF CLERK.—(g) The members of the State Mining Board shall receive as compensation for their services the sum of five dollars (\$5) each per day for a term not exceeding one hundred (100) days in any one year, and whatever sums are necessary to reimburse them for such actual and necessary traveling expenses as may be incurred in the discharge of their duties.

The salary of the chief clerk shall be \$2,000 per annum and he shall be reimbursed for any amounts expended for actual and necessary traveling expenses in the discharge of his duties.

All salaries and expenses of the board and of its employes shall be paid upon vouchers duly sworn to by each and approved by the president of the board, or in his absence by the acting president, and by the Governor, and the Auditor of Public Accounts is hereby authorized to draw his warrants on the State treasury (Treasurer) for the amounts thus shown to be due, payable out of any money in the treasury not otherwise appropriated.

SEC. 2. CREDENTIALS.—(a) An applicant for any certificate herein provided for, before being examined, shall register his name with the State Mining Board and file with the board the credentials required by this Act, to wit: An affidavit as to all matters of fact establishing his right to receive the examination, and a certificate of good character and temperate habits, signed by at least ten residents of the community in which he resides.

EXAMINATIONS FOR INSPECTORS.—(b) Persons applying to the State Mining Board as candidates for appointment as State inspectors of mines must produce evidence satisfactory to the board that they are citizens of this State, at least thirty years of age, that they have had a practical mining experience of ten years, and that they are men of good repute and temperate habits; they must pass an examination as to their practical and technological knowledge of mine surveying and mining machinery and appliances, of the proper development and operation of coal mines, of ventilation in mines, of the nature and properties of mine gases, of first aid to injured, of mine rescue methods and appliances, of the geology of the coal measures in this State, and of the laws of this State relating to coal mines.

NAMES CERTIFIED TO THE GOVERNOR.—(c) At the close of each examination for inspectors the board shall certify to the Governor the names of all candidates who have received a rating above the minimum fixed by the rules of the board as being persons properly qualified for the position of inspector.

EXAMINATIONS FOR MINE MANAGERS.—(d) Persons applying to the board for certificates of competency as mine managers must produce evidence satisfactory to the board that they are citizens of the United States, at least twenty-four years of age, that they have had at least four years' practical mining experience, and that they are men of good repute and temperate habits; they must also pass such examination as to their experience in mines and in the management of men, their knowledge of mine machinery and appliances, the use of surveying and other instruments used in mining, the properties of mine gases, the principles of ventilation, of first aid to injured, of mine rescue methods and appliances, and the legal duties and responsibilities of mine managers, as shall be prescribed by the rules of the board.

FOR MINE MANAGERS, SECOND CLASS.—(d) Persons coming before the board for certificates of competency as mine managers, second class, must produce evidence satisfactory to the board that they are citizens of the United States, at least twenty-four years of age, that they have had at least four years' practical mining experience, and that they are men of good repute and temperate habits; they must also submit to and satisfactorily pass such an examination as to their experience in mines and in the management of men, their knowledge of coal mining, mine ventilation and the mining laws of this State and the required duties and responsibilities of second class mine managers, as shall be prescribed by the rules of the board, and it shall be unlawful to employ second-class mine managers, or for them to serve in that capacity at mines employing more than ten men.

EXAMINATIONS FOR MINE EXAMINERS.—(e) Persons applying to the board for certificates of competency as mine examiners, must produce evidence satisfactory to the board that they are citizens of the United States, at least twenty-one years of age, and of good repute and temperate habits, and that they have

had at least four years' practical mining experience. They must pass an examination as to their experience in mines generating dangerous gases, their practical and technological knowledge of the nature and properties of fire-lamp, the laws of ventilation, the structure and uses of safety lamps, and the laws of this State relating to safeguards against fires from any source in mines.

EXAMINATIONS FOR HOISTING ENGINEERS.—(f) Persons applying to the board for certificates of competency as hoisting engineers must produce evidence satisfactory to the board that they are citizens of the United States, at least twenty-one years of age, that they have had at least two years' experience as fireman or engineer of a hoisting plant, and are of good repute and temperate habits. They must pass an examination as to their experience in handling hoisting machinery, and as to their practical and technological knowledge of the construction, cleaning and care of steam boilers, the care and adjustment of hoisting engines, the management and efficiency of pumps, ropes and winding apparatus, and as to their knowledge of the laws of this State in relation to signals and the hoisting and lowering of men at mines.

EXAMINATION PAPERS PRESERVED.—(g) There shall be a written and an oral examination of applicants as may be prescribed by the rules of the board; and all written examination papers and all other papers of applicants shall be kept on file by the board for not less than one year, during which time any applicant shall have the right to inspect his said papers at all reasonable times; and any applicant shall be entitled to a certified copy of any or all of his said papers upon payment of a reasonable copy fee therefor.

SEC. 3. CERTIFICATES ISSUED BY THE BOARD.—(a) The certificates provided for in this Act shall be issued under the signature and seal of the State Mining Board, to all those who receive a rating above the minimum fixed by the rules of the board; such certificates shall contain the full name, age and place of birth of the recipient and the length and nature of his previous service in or about coal mines.

RECORD TO BE PRESERVED.—(b) The board shall make and preserve a record of the names and addresses of all persons to whom certificates are issued.

EFFECT OF CERTIFICATES.—(c) The certificates provided for in this Act shall entitle the holders thereof to accept and discharge at any mine in this State, the duties for which they are declared qualified.

UNLAWFUL TO EMPLOY OTHER THAN CERTIFICATED MINE MANAGERS.—(d) It shall be unlawful for the operator of any coal mine to have in his service as mine manager at his mine, any person who does not hold a certificate of competency issued by the State Mining Board of this State: Provided, that whenever any exigency arises by which it is impossible for any operator to secure the immediate services of a certified mine manager, he may place any trustworthy and experienced man of the mine inspection district in charge of his mine to act as temporary mine manager for a period not exceeding seven days, and with the approval of the State inspector of the district, for a further period not exceeding twenty-three days.

UNLAWFUL TO EMPLOY OTHER THAN CERTIFICATED MINE EXAMINERS.—(e) It shall be unlawful for the operator of any coal mine to have in his service as examiner any person who does not hold a certificate of competency issued by the State Mining Board: Provided, that any one holding a mine manager's certificate may serve as mine examiner; but in any mine employing more than twenty-five (25) men, the mine manager shall not act in the capacity of mine examiner while acting as mine manager: And, Provided, whenever an exigency arises by which it is impossible for any operator to secure the immediate services of a certificated examiner, he may employ any trustworthy and

experienced man of the mine inspection district to act as temporary mine examiner for a period not exceeding seven days, and with the approval of the State inspector of the district, for a further period not exceeding twenty-three days.

UNLAWFUL TO EMPLOY OTHER THAN CERTIFICATED HOISTING ENGINEER.—(f) It shall be unlawful for the operator of any mine to permit any person who does not hold a certificate of competency as hoisting engineer issued by the State Mining Board, to hoist or lower men, or to have charge of the hoisting engine when men are underground.

TEMPORARY EMPLOYMENT OF UNCERTIFICATED PERSONS NOT EXTENDED.—(g) The employment of persons who do not hold certificates as mine managers and mine examiners, shall in no case exceed the limit of time specified herein, and the State inspector shall not approve of the employment of such persons beyond the twenty-three day limit.

REMOVAL OF INSPECTORS.—(h) Upon a petition signed by not less than three coal operators, or ten coal miners, setting forth that any State inspector of mines neglects his duties, or that he is incompetent, or that he is guilty of malfeasance in office, or guilty of any act tending to the unlawful injury of miners or operators of mines, it shall be the duty of the State Mining Board to issue a citation to the said inspector to appear before it within a period of fifteen days on a day fixed for said hearing, when the said board shall investigate the allegations of the petitioners; and if the said board shall find that the said inspector is neglectful of his duty, or that he is guilty of malfeasance in office, or guilty of any act tending to the injury of miners or operators of mines, the said board shall declare the office of said inspector vacant, and a properly qualified person shall be duly appointed, in the manner provided for in this Act, to fill said vacancy.

CANCELLATION OF CERTIFICATES.—(i) The certificate of any mine manager, hoisting engineer or mine examiner, may be canceled and revoked by the State Mining Board upon notice and hearing as hereinafter provided, if it shall be established in the judgment of said board that the holder thereof has become unworthy to hold said certificate by reason of violation of the law, intemperate habits, incapacity, abuse of authority or for any other cause: Provided, that any person against whom charges or complaints are made hereunder shall have the right to appear before said board and defend against said charges, and he shall have fifteen day's notice in writing of such charges previous to such hearing: Provided, further, that the board in its discretion may suspend the certificate of any person charged as aforesaid, pending said hearing, but said hearing shall not be unreasonably deferred.

SEC. 4. INSPECTION DISTRICTS.—The State shall be divided into twelve inspection districts, said divisions to be made by the State Mining Board. The board may also change from time to time the boundaries of said districts, in order to more equally distribute the labor and expense of the several mine inspectors, but this provision shall not be construed as authorizing the State Mining Board to increase the number of districts.

SEC. 5. INSPECTORS APPOINTED.—(a) From the names certified by the State Mining Board, the Governor shall select and appoint twelve State mine inspectors; that is to say, one inspector for each of the twelve inspection districts provided for in this Act; or more, if, in the future, additional inspection districts shall be created, and their commissions shall be for a term of two years from July first, provided the term of any State mine inspector in office July 1, 1911, shall be extended to October 1, 1911, and provided any State inspector in actual service and good standing and who has passed one examination under this Act may be reappointed for the next ensuing term, without further certification, but

shall not be so reappointed more than three times: Provided, further, no man shall be eligible for appointment as a State inspector of mines who has any pecuniary interest in any coal mine in Illinois.

(b) The county board of supervisors, or of commissioners in counties not under township organization, or any county in which coal is produced, upon the written request of the State Inspector of Mines for the district in which said county is located, shall appoint a county inspector of mines as assistant to such State inspector, but no person shall be eligible for appointment as county inspector who does not hold a State certificate of competency as mine manager, and the compensation of such county inspector shall be fixed by the county board at not less than three dollars per day, to be paid out of the county treasury.

The State inspector may authorize any county inspector in his district to assume and discharge all the duties and exercise all the powers of a State inspector in the county for which he is appointed, in the absence of the State inspector; but such authority must be conferred in writing and the county inspector must produce the same as evidence of his powers upon the demand of any person affected by his acts; and the bond of said State inspector shall be holden for the faithful performance of the duties of such assistant inspector.

BOND.—(c) State inspectors, before entering upon their duties as such, must take an oath of office, as provided for by the Constitution, and enter into a bond to the State in the sum of five thousand dollars (\$5,000) for State mine inspectors, with sureties to be approved by the Governor, conditioned upon the faithful performance of their duties in every particular, as required by this Act. Said bonds, with the approval of the Governor endorsed thereon, together with the oath of office, shall be deposited with the Secretary of State.

INSTRUMENTS.—(d) The State Mining Board shall furnish to each of said State inspectors an anemometer, a safety-lamp and such other instruments and such blanks, blank-books, stationery, printing and supplies as may be required by said inspectors in the discharge of their official duties. Said instruments and supplies shall be paid for on bills of particulars certified by the proper officers of the board and approved by the Governor; and the Auditor of Public Accounts shall draw his warrants on the State treasury (Treasurer) for the amounts thus shown to be due, payable out of any money in the treasury not otherwise appropriated.

EXAMINATION OF MINES.—(e) State inspectors shall devote their whole time and attention to the duties of their respective offices. State inspectors shall make personal examination at least once in every six months of each mine in their district in which marsh gas has been detected in quantities which, in the judgment of the State Mining Board, is dangerous. The State Mining Board also may require State inspectors personally to examine any or all other mines in their respective districts. State inspectors may be assigned by the State Mining Board to examine mines which have not been classified as generating marsh gas in dangerous quantities. Every mine in the State shall be examined at least once in every six months.

SCOPE OF EXAMINATION.—(f) Every State inspector in the regular inspection of mines shall measure with an anemometer and determine the amount of air passing in the last cross-cut in each pair of entries in pillar and room mines, or in the last room of each division in longwall mines. He shall also measure with an anemometer and determine the amount of air passing at the inlet and outlet of the mines; and he shall compare all such air measurements with the last report of the mine examiner and the mine manager upon the mine examination book of the mine. He must observe that the legal code of signals between the engineer and the top man and bottom man is established and conspicuously posted for the information of all employees.

State inspectors also shall require that every necessary precaution be taken to insure the health and safety of the workmen employed in the mines, and that the provisions and requirements of all the mining laws of this State are obeyed.

State inspectors shall render written reports of mine inspections made by them to the State Mining Board in such form and manner as shall be required by the board. State inspector(s) shall take prompt action for the enforcement of the penalties provided for violation of the mining laws.

AUTHORITY TO ENTER.—(g) It shall be lawful for State inspectors to enter, examine and inspect any and all coal mines and the machinery belonging thereto, at all reasonable times, by day or by night, but so as not to unreasonably obstruct or hinder the working of such coal mine, and the operator of every such coal mine is hereby required to furnish all necessary facilities for making such examination and inspection.

PROCEDURE IN CASE OF OBJECTION.—(h) If any operator shall refuse to permit such inspection or to furnish the necessary facilities for making such examination and inspection, the inspector shall file his affidavit, setting forth such refusal, with the judge of the circuit court in said county in which said mine is situated, either in term time or vacation, or, in the absence of said judge, with a master in chancery in said county, in which said mine is situated, and obtain an order on such owner, agent or operator so refusing as aforesaid, commanding him to permit and furnish such necessary facilities for the inspection of such coal mine, or to be adjudged to stand in contempt of court and punished accordingly.

NOTICES TO BE POSTED.—(i) The State inspector shall post in some conspicuous place at the top of each mine inspected by him, a plain statement showing what in his judgment is necessary for the better protection of the lives and health of persons employed in such mine; such statement shall give the date of inspection and be signed by the inspector. He shall post a notice at the landing used by the men, stating what number of men will be permitted to ride on the cage at one time and the rate of speed at which men may be hoisted and lowered on the cages.

NOTE.—Clauses (j) and (k) are under the title Mine inspectors, page 49.

INSPECTORS' ANNUAL REPORTS.—(l) Each State inspector of mines shall, within sixty days after June 30th of each year, prepare and forward to the State Mining Board a formal report of his acts during the year in the discharge of his duties, with any recommendations as to legislation he may deem necessary on the subject of mining, and shall collect and tabulate upon blanks furnished by said board all desired statistics of mines and miners within his district to accompany said annual report.

REPORTS TO BE PUBLISHED.—(m) On the receipt of said inspectors' reports the chief clerk of the State Mining Board shall compile and summarize the same, to be included in the report of said board, to be known as the Annual Coal Report which shall, within four months thereafter, be bound, printed and transmitted to the Governor for the information of the General Assembly and the public. The printing and binding of said reports shall be provided for by the Commissioners of State Contracts in like manner and in like numbers as they provide for the publication of other official reports to the Governor.

REPORTS BY OPERATOR.—(n) Every coal operator shall, within thirty days after June 30 of each year, furnish to the State mine inspector of the district, on blanks furnished by him prior to said June 30, statistics of the wages and conditions of their employes as required by law. The failure of any inspector to forward to the State Mining Board his formal report, as provided in paragraph [one] (1) hereof, or the failure of any coal operator to furnish to the

State Mine Inspector of the district the statistics provided for herein, shall be adjudged a misdemeanor and be subject to a fine of \$100.

SEC. 6. PAY OF INSPECTORS.—Each State Inspector of mines shall receive as compensation for his services the sum of \$1,800 per annum, and for traveling and other necessary expenses each shall receive the sum actually expended for that purpose in the discharge of his official duties: Provided, such expenses shall not exceed one hundred dollars (\$100) per calendar month for each State inspector of mines, both salary and expenses to be paid monthly by the State Treasurer, on warrants of the Auditor of Public Accounts, from the funds in the treasury not otherwise appropriated; said expense vouchers shall show the items of expenditures in detail, with sub-vouchers for the same so far as it is practicable to obtain them. Said vouchers shall be sworn to by the inspector and be approved by the president of the State Mining Board and the Governor.

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FIRST AMENDATORY ACT.

LAWS 1913, P. 412.

JUNE 27, 1913.

AN ACT to amend sections 1, 2, 3, 5, 6, 10, 11, 14, 16, 18, 19, 20, and 21 of An Act entitled "An Act to revise the laws in relation to coal mines and subjects relating thereto, and providing for the health and safety of persons employed therein," approved June 6, 1911, in force July 1, 1911.

SECTION 1. Be it enacted, etc.:

That sections 1, 2, 3, 5, 6, 10, 11, 14, 16, 18, 19, 20, and 21 of An Act entitled, "An Act to revise the laws in relation to coal mines and subjects relating thereto, and providing for the health and safety of persons employed therein," approved June 6, 1911, in force July 1, 1911, be and the same are hereby amended so as to read as follows:

SEC. 1. (a) That the Governor, with the advice and consent of the Senate, shall appoint a State Mining Board which shall be composed of five members, two of whom shall be practical coal miners, one a practicing coal mine hoisting engineer, and two coal operators.

POWERS AND DUTIES OF BOARD.—(b) Said board shall be authorized, empowered and required to make formal inquiry into and pass upon the practical and technological qualifications and personal fitness of men seeking appointment as State Inspectors of Mines, and of those seeking certificates of competency as mine managers, as hoisting engineers and as mine examiners. Said board also shall have such other powers and duties as may be prescribed by the provisions of this Act, or any other Act relating to coal mining. Said Board also shall control and direct the State mine inspectors hereinafter provided for, in the discharge of their duties, and shall have the power and shall in person and through the State Mine Inspectors see that all the provisions of the State mining law are enforced. Said board also shall cause to be collected statistical details relating to coal mining in the State, especially in its relations to the vital, sanitary, commercial and industrial conditions, and to the permanent prosperity of said industry; and said board shall cause such statistical details to be compiled and summarized as a report of said State Mining Board, to be known as the Annual Coal Report.

DATE AND TERM OF APPOINTMENT.—(c) Their appointment shall date from July 1, 1911, and they shall serve for a term of two years or until their successors are appointed and qualified. They shall all be sworn to a faithful performance of their duties. One of the coal operators member of said board shall be elected as president, and one of the coal miners member of said board shall be elected as secretary. The board may appoint a chief clerk and may employ such other persons as may be necessary for the proper dis-

charge of its powers and duties; all of whom shall perform such duties as may be prescribed by the board from time to time, and the board may from time to time also prescribe standing and other rules for the control and direction of its officers and employees and of the State mine inspectors.

SUPPLIES FURNISHED BY SECRETARY OF STATE.—(d) The Secretary of State shall assign to the use of the board, suitably furnished rooms in the State House, and shall also furnish whatever blanks, blank books, printing, stationery, instruments and supplies the board may require in the discharge of its duties, and for the use of State mine inspectors.

FREQUENCY OF MEETINGS.—(e) The board shall hold such meetings from time to time as may be necessary for the proper discharge of its duties. The board shall meet at the Capitol on the second Tuesday in September of the year 1911, and annually thereafter, for the examination of candidates for appointment as State inspectors of mines. Special examinations also may be held whenever for any reason it may be come necessary to appoint one or more inspectors.

For the examination of persons seeking certificates of competency as mine managers, hoisting engineers and mine examiners, the board shall hold meetings at such times and places within the State as shall, in the judgment of the members, afford the best facilities to the greatest number of candidates.

Public notice shall be given through the press or otherwise, not less than ten days in advance, announcing the time and place at which any examinations under this section are to be held.

RULES OF PROCEDURE.—(f) The examinations herein provided for shall be conducted under rules, conditions and regulations prescribed by the board. Such rules shall be made a part of the permanent record of the board, and such of them as relate to candidates shall be, upon application of any candidate, furnished to him by the board; they shall also be of uniform application to all candidates.

COMPENSATION OF MEMBERS—SALARY OF CHIEF CLERK.—(g) The members of the State Mining Board shall receive as compensation for their services the sum of five dollars (\$5) each per day for a term not exceeding one hundred (100) days in any one year, and whatever sums are necessary to reimburse them for such actual and necessary traveling expenses as may be incurred in the discharge of their duties.

The salary of the chief clerk shall be \$2,000 per annum, and he shall be reimbursed for any amounts expended for actual and necessary traveling expenses in the discharge of his duties.

All salaries and expenses of the board and of its employees shall be paid upon vouchers duly sworn to by each and approved by the president of the board, or in his absence by the acting president, and by the Governor, and the Auditor of Public Accounts is hereby authorized to draw his warrants on the State treasury for the amounts thus shown to be due, payable out of any money in the treasury not otherwise appropriated.

SEC. 2. CREDENTIALS.—(a) An applicant for any certificate herein provided for before being examined, shall register his name with the State Mining Board and file with the board the credentials required by this Act, to-wit: An affidavit as to all matters of fact establishing his right to receive the examination, and a certificate of good character and temperate habits, signed by at least ten residents of the community in which he resides.

EXAMINATIONS FOR INSPECTORS.—(b) Persons applying to the State Mining Board as candidates for appointment as State inspectors of mines must produce evidence satisfactory to the board that they are citizens of this State, at least thirty years of age, that they have had a practical mining experience of ten

years, and that they are men of good repute and temperate habits; they must pass an examination as to their practical and technological knowledge of mine surveying and mining machinery and appliances, of the proper development and operation of coal mines, of ventilation in mines, of the nature and properties of mine gases, of first aid to injured, of mine rescue methods and appliances, of the geology of coal measures in this State, and of the laws of this State relating to coal mines.

NAMES CERTIFIED TO THE GOVERNOR.—(c) At the close of each examination for inspectors the board shall certify to the Governor the names of all candidates who have received a rating above the minimum fixed by the rules of the board as being persons properly qualified for the position of inspector.

EXAMINATIONS FOR MINE MANAGERS.—(d) Persons applying to the board for certificates of competency as mine managers must produce evidence satisfactory to the board that they are citizens of the United States, at least twenty-four years of age, that they have had at least four years' practical mining experience, and that they are men of good repute and temperate habits; they must also pass such examination as to their experience in mines and in the management of men, their knowledge of mine machinery and appliances, the use of surveying and other instruments used in mining, the properties of mine gases, the principles of ventilation, of first aid to injured, of mine rescue methods and appliances, and the legal duties and responsibilities of mine managers, as shall be prescribed by the rules of the board.

FOR MINE MANAGERS, SECOND CLASS.—(d) Persons coming before the board for certificates of competency as mine managers, second class, must produce evidence satisfactory to the board that they are citizens of the United States, at least twenty-four years of age, that they have had at least four years' practical mining experience, and that they are men of good repute and temperate habits; they must also submit to and satisfactorily pass such an examination as to their experience in mines and in the management of men, their knowledge of coal mining, mine ventilation and the mining laws of this State and the required duties and responsibilities of second class mine managers, as shall be prescribed by the rules of the board, and it shall be unlawful to employ second-class mine managers, or for them to serve in that capacity at mines employing more than ten men.

EXAMINATIONS FOR MINE EXAMINERS.—(e) Persons applying to the board for certificates of competency as mine examiners, must produce evidence satisfactory to the board that they are citizens of the United States, at least twenty-one years of age, and of good repute and temperate habits, and that they have had at least four years' practical mining experience. They must pass an examination as to their experience in mines generating dangerous gases, their practical and technological knowledge of the nature and properties of fire-damp, the laws of ventilation, the structure and uses of safety lamps, and the laws of this State relating to safeguards against fires from any source in mines. They shall also possess a knowledge of first aid to injured and of mine-rescue methods, and shall hold a certificate from any national or State commission or bureau or other recognized agency.

EXAMINATIONS FOR HOISTING ENGINEERS.—(f) Persons applying to the board for certificates of competency as hoisting engineers must produce evidence satisfactory to the board that they are citizens of the United States, at least twenty-one years of age, that they have had at least two years' experience as fireman or engineer of a hoisting plant, and are of good repute and temperate habits. They must pass an examination as to their experience in handling hoisting machinery, and as to their practical and technological knowledge of

the construction, cleaning and care of steam boilers, the care and adjustment of hoisting engines, the management and deficiency of pumps, ropes and winding apparatus, and as to their knowledge of the laws of this State in relation to signals and the hoisting and lowering of men at mines.

EXAMINATION PAPERS PRESERVED.—(g) There shall be a written and an oral examination of applicants as may be prescribed by the rules of the board; and all written examination papers and all other papers of applicants shall be kept on file by the board for not less than one year, during which time any applicant shall have the right to inspect his said papers at all reasonable times; and any applicant shall be entitled to a certified copy of any or all of his said papers upon payment of a reasonable copy fee therefor.

SEC. 3. CERTIFICATES ISSUED BY THE BOARD.—(a) The certificates provided for in this Act shall be issued under the signature and seal of the State Mining Board, to all those who receive a rating above the minimum fixed by the rules of the board; such certificates shall contain the full name, age and place of birth of the recipient and the length and nature of his previous service in or about coal mines.

RECORD TO BE PRESERVED.—(b) The board shall make and preserve a record of the names and addresses of all persons to whom certificates are issued.

EFFECT OF CERTIFICATES.—(c) The certificates provided for in this Act shall entitle the holders thereof to accept and discharge at any mine in this State, the duties for which they are declared qualified.

UNLAWFUL TO EMPLOY OTHER THAN CERTIFICATED MINE MANAGERS.—(d) It shall be unlawful for the operator of any coal mine to have in his service as mine manager at his mine, any person who does not hold a certificate of competency issued by the State Mining Board of this State: Provided, that whenever any exigency arises by which it is impossible for any operator to secure the immediate services of a certificated mine manager, he may place any trustworthy and experienced man of the mine inspection district in charge of his mine to act as temporary mine manager for a period not exceeding seven days, and with the approval of the State inspector of the district, for a further period not exceeding twenty-three days.

UNLAWFUL TO EMPLOY OTHER THAN CERTIFICATED MINE EXAMINERS.—(e) It shall be unlawful for the operator of any mine to have in his service as mine examiner any person who does not hold a certificate of competency issued by the State Mining Board: Provided, that any one holding a mine managers' certificate may serve as mine examiner; but in any mine employing more than twenty-five (25) men, the mine manager shall not act in the capacity of mine examiner while acting as mine manager: And, provided, whenever an exigency arises by which it is impossible for any operator to secure the immediate services of a certificated examiner, he may employ any trustworthy and experienced man of the mine-inspection district to act as temporary mine examiner for a period not exceeding seven days, and with the approval of the State inspector of the district, for a further period not exceeding twenty-three days.

UNLAWFUL TO EMPLOY OTHER THAN CERTIFICATED HOISTING ENGINEER.—(f) It shall be unlawful for the operator of any mine to permit any person who does not hold a certificate of competency as hoisting engineer issued by the State Mining Board, to hoist or lower men, or to have charge of the hoisting engine when men are underground.

TEMPORARY EMPLOYMENT OF UNCERTIFICATED PERSONS NOT EXTENDED.—(g) The employment of persons who do not hold certificates as mine managers and mine examiners shall in no case exceed the limit of time specified herein, and the

State inspector shall not approve of the employment of such persons beyond the twenty-three day limit.

REMOVAL OF INSPECTORS.—(h) Upon a petition signed by not less than three coal operators, or ten coal miners, setting forth that any State inspector of mines neglects his duties, or that he is incompetent, or that he is guilty of malfeasance in office, or guilty of any act tending to the unlawful injury of miners or operators of mines, it shall be the duty of the State Mining Board to issue a citation to the said inspector to appear before it within a period of fifteen days on a day fixed for said hearing, when the said board shall investigate the allegations of the petitioners; and if the said board shall find that the inspector is neglectful of his duty or is incompetent or that he is guilty of malfeasance in office, or guilty of any act tending to the injury of miners or operators of mines, the said board shall declare the office of said inspector vacant, and a properly qualified person shall be duly appointed, in the manner provided for in this Act, to fill said vacancy.

CANCELLATION OF CERTIFICATES.—(i) The certificate of any mine manager, hoisting engineer or mine examiner may be cancelled and revoked by the State Mining Board upon notice and hearing as hereinafter provided, if it shall be established in the judgment of said board that the holder thereof has become unworthy to hold said certificate by reason of violation of the law, intemperate habits, incapacity, abuse of authority or for any other cause: Provided, that any person against whom charges or complaints are made hereunder shall have the right to appear before said board and defend against said charges, and he shall have fifteen days' notice in writing of such charges previous to such hearing: Provided, further, that the board in its discretion may suspend the certificate of any person charged as aforesaid, pending such hearing, but said hearing shall not be unreasonably deferred.

SEC. 5. INSPECTORS APPOINTED.—(a) From the names certified by the State Mining Board, the Governor shall select and appoint twelve State mine inspectors; that is to say, one inspector for each of the twelve inspection districts provided for in this Act; or more, if, in the future, additional inspection districts shall be created, and their commissions shall be for a term of two years from July 1, provided the term of any State mine inspector in office July 1, 1911, shall be extended to Oct. 1, 1911, and provided any State inspector in actual service and good standing and who has passed one examination under this Act may be reappointed for the next ensuing term, without further certification, but shall not be so reappointed more than three times: Provided, further, no man shall be eligible for appointment as a State inspector of mines who has any pecuniary interest in any coal mine in Illinois.

(b) The county board of supervisors, or of commissioners in counties not under township organization, of any county in which coal is produced, upon the written request of the State Inspector of Mines for the district in which said county is located, shall appoint a county inspector of mines as assistant to such State inspector, but no person shall be eligible for appointment as county inspector who does not hold a State certificate of competency as mine manager, and the compensation of such county inspector shall be fixed by the county board at not less than three dollars per day, to be paid out of the county treasury.

The State inspector may authorize any county inspector in his district to assume and discharge all the duties and exercise all the powers of a State inspector in the county for which he is appointed, in the absence of the State inspector; but such authority must be conferred in writing and the county

inspector must produce the same as evidence of his powers upon the demand of any person affected by his acts; and the bond of said State inspector shall be holden for the faithful performance of the duties of such assistant inspector.

BOND.—(c) State inspectors, before entering upon their duties as such, must take an oath of office, as provided for by the Constitution, and enter into a bond to the State in the sum of five thousand dollars (\$5,000) for State mine inspectors, with sureties to be approved by the Governor, conditioned upon the faithful performance of their duties in every particular, as required by this Act. Said bonds, with the approval of the Governor endorsed thereon, together with the oath of office, shall be deposited with the Secretary of State.

INSTRUMENTS.—(d) The State Mining Board shall furnish to each of said State inspectors an anemometer, a safety-lamp and such other instruments and such blanks, blank-books, stationery, printing and supplies as may be required by said inspectors in the discharge of their official duties. Said instruments and supplies shall be paid for on bills of particulars certified by the proper officers of the board and approved by the Governor; and the Auditor of Public Accounts shall draw his warrants on the State treasury for the amounts thus shown to be due, payable out of any money in the treasury not otherwise appropriated.

EXAMINATION OF MINES.—(e) State inspectors shall devote their whole time and attention to the duties of their respective offices. State inspectors shall make personal examination at least once in every six months or oftener if necessary, of each mine in their district in which ten or more men are employed. The State Mining Board also may require State inspectors personally to examine any or all other mines in their respective districts. Every mine in the State shall be examined at least once in every six months by either a State or county mine inspector.

SCOPE OF EXAMINATION.—(f) Every State inspector in the regular inspection of mines shall measure with an anemometer and determine the amount of air passing in the last cross-cut in each pair of entries in pillar and room mines, or in the last room of each division in long-wall mines. He shall also measure with an anemometer and determine the amount of air passing at the inlet and outlet of the mines; and he shall compare all such air measurements with the last report of the mine examiner and the mine manager upon the mine examination book of the mine. He must observe that the legal code of signals between the engineer and top man and bottom man is established and conspicuously posted for the information of all employees.

State inspectors also shall require that every necessary precaution be taken to insure the health and safety of the workmen employed in the mines, and that the provisions and requirements of all the mining laws of this State are obeyed.

State inspectors shall render written reports of mine inspections made by them to the State Mining Board in such form and manner as shall be required by the board. State inspectors shall take prompt action for the enforcement of the penalties provided for violation of the mining laws.

AUTHORITY TO ENTER.—(g) It shall be lawful for State inspectors to enter, examine and inspect any and all coal mines and the machinery belonging thereto, at all reasonable times, by day or by night, but so as not to unreasonably obstruct or hinder the working of such coal mine, and the operator of every such coal mine is hereby required to furnish all necessary facilities for making such examination and inspection.

PROCEDURE IN CASE OF OBJECTION.—(h) If any operator shall refuse to permit such inspection or to furnish the necessary facilities for making such examina-

tion and inspection, the inspector shall file his affidavit, setting forth such refusal, with the judge of the circuit court in said county in which said mine is situated, either in term time or vacation, or, in the absence of said judge, with a master in chancery in said county in which said mine is situated, and obtain an order on such owner, agent or operator so refusing as aforesaid, commanding him to permit and furnish such necessary facilities for the inspection of such coal mine, or to be adjudged to stand in contempt of court and punished accordingly.

NOTICES TO BE POSTED.—(i) The State inspector shall post in some conspicuous place at the top of each mine inspected by him, a plain statement showing what in his judgment is necessary for the better protection of the lives and health of persons employed in such mine, such statement shall give the date of inspection and be signed by the inspector. He shall post a notice at the landing used by the men, stating what number of men will be permitted to ride on the cage at any one time, and the rate of speed at which men may be hoisted and lowered on the cages. (Paragraphs (j) and (k) are on page 49.)

INSPECTORS' ANNUAL REPORTS.—(l) Each State inspector of mines shall, within sixty days after June 30 of each year, prepare and forward to the State Mining Board a formal report of his acts during the year in the discharge of his duties, with any recommendations as to legislation he may deem necessary on the subject of mining, and shall collect and tabulate upon blanks furnished by said board all desired statistics of mines and miners within his district to accompany said annual report.

REPORTS TO BE PUBLISHED.—(m) On the receipt of said inspectors' reports the chief clerk of the State Mining Board shall compile and summarize the same, to be included in the report of said board, to be known as the Annual Coal report, which shall, within four months thereafter, be bound, printed and transmitted to the Governor for the information of the General Assembly and the public. The printing and binding of said reports shall be provided for by the Commissioners of State Contracts in like manner and in like numbers as they provide for the publication of other official reports to the Governor.

REPORTS BY OPERATOR.—(n) Every coal operator shall within thirty days after June 30 of each year, furnish to the State mine inspector of the district, on blanks furnished by him prior to said June 30, statistics of the wages and conditions of their employees as required by law. The failure of any inspector to forward to the State Mining Board his formal report, as provided in paragraph [one] (1) hereof, or the failure of any coal operator to furnish to the State Mine Inspector of the district the statistics provided for herein, shall be adjudged a misdemeanor and be subject to a fine of \$100.

SEC. 6. PAY OF INSPECTORS.—Each State Inspector of mines shall receive a compensation for his services the sum of \$1,800 per annum, and for traveling and other necessary expenses each shall receive the sum actually expended for that purpose in the discharge of his official duties: Provided, such expenses shall not exceed one hundred dollars (\$100) per calendar month for each State inspector of mines, both salary and expenses to be paid monthly by the State Treasurer, on warrants of the Auditor of Public Accounts, from the funds in the treasury not otherwise appropriated; said expense vouchers shall show the items of expenditures in detail, with sub-vouchers for the same so far as it is practicable to obtain them. Said vouchers shall be sworn to by the inspector and be approved by the president of the State Mining Board and the Governor.

NOTE.—The remaining amendatory sections, 10, 11, 14, 16, 18, 19, 20, and 21, are under the appropriate title, Mining Operations. See page 229.

SECOND AMENDATORY ACT.

LAWS 1915, P. 505.

JUNE 28, 1915.

AN ACT to amend sections 2, 3, 5, 6, 7, 9, 10, 15, 21, and 25 of An Act entitled, "An Act," etc. (same as in section 1).

SECTION 1. Be it enacted, etc.:

That sections 2, 3, 5, 6, 7, 9, 10, 15, 21, and 25 of An Act entitled, "An Act to revise the laws in relation to coal mines and subjects relating thereto, and providing for the health and safety of persons employed therein," approved June 6, 1911, in force July 1, 1911, approved June 26, 1913, in force July 1, 1913, be and the same are hereby amended so as to read as follows:

SEC. 2. CREDENTIALS.—(a) An applicant for any certificate herein provided for, before being examined, shall register his name with the State mining board and file with the board the credentials required by this Act, to wit: An affidavit as to all matters of fact establishing his right to receive the examination and a certificate of good character and temperate habits signed by at least ten residents of the community in which he resides.

EXAMINATION FOR INSPECTORS.—(b) Each applicant for a certificate of competency as State inspector of mines shall produce evidence satisfactory to the board that he is a citizen of this State, at least thirty years of age, that he has had a practical mining experience of ten years, of which at least two years have been in the State of Illinois, and that he is a man of good repute and temperate habits; he shall pass an examination as to his practical and technological knowledge of mine surveying and mining machinery and appliances, of the proper development and operation of coal mines, of ventilation in mines, of the nature and properties of mine gases, of first aid to injured, of mine rescue methods and appliances, of the geology of coal measures in this State, and of the laws of this State relating to coal mines.

NAMES CERTIFIED TO THE GOVERNOR.—(c) At the close of each examination for inspectors the board shall certify to the Governor the names of all candidates who have received a rating above the minimum fixed by the rules of the board as being persons properly qualified for the position of inspector.

EXAMINATION FOR MINE MANAGERS.—(d) Each applicant for a certificate of competency as mine manager shall produce evidence satisfactory to the board that he is a citizen of the United States, at least twenty-four years of age, that he has had at least four years' practical mining experience, and that he is a man of good repute and temperate habits; he shall also pass such examination as to his experience in mines and in the management of men, his knowledge of mine machinery and appliances, the use of surveying and other instruments used in mining, the properties of mine gases, the principles of ventilation, of first aid to injured, of mine rescue methods and appliances, and the legal duties and responsibilities of mine managers, as shall be prescribed by the rules of the board.

FOR MINE MANAGERS, SECOND CLASS.—(d) Each applicant for certificate of competency as mine managers, second class, shall produce evidence satisfactory to the board that he is a citizen of the United States, at least twenty-four years of age, that he has had at least four years' practical mining experience, and that he is a man of good repute and temperate habits; he shall also submit to and satisfactorily pass such an examination as to his experience in mines and in the management of men, his knowledge of coal mining, mine ventilation and the mining laws of this State and the required duties and responsibilities of second class mine managers, as shall be prescribed by the rules of the board, and it shall be unlawful to employ second-class mine managers, or for them to serve in that capacity at mines employing more than ten men.

EXAMINATION FOR MINE EXAMINERS.—(e) Each applicant for a certificate of competency as mine examiner, shall produce evidence satisfactory to the board that he is a citizen of the United States, at least twenty-one years of age, and of good repute and temperate habits, and that he has had at least four years' practical mining experience. He shall pass an examination as to his experience in mines generating dangerous gases, his practical and technological knowledge of the nature and properties of fired-damp, (fire-damp), the laws of ventilation, the structure and uses of safety lamps, and the laws of this State relating to safeguards against fires from any source in mines. He shall also possess a knowledge of first aid to the injured and of mine rescue methods.

EXAMINATION FOR HOISTING ENGINEERS.—(f) Each applicant for a certificate of competency as hoisting engineer shall produce evidence satisfactory to the board that he is a citizen of the United States, at least twenty-one years of age, that he has had at least two years' experience as fireman or engineer of a hoisting plant, and is of good repute and temperate habits. He shall pass an examination as to his experience in handling hoisting machinery, and as to his practical and technological knowledge of the construction, cleaning and care of steam boilers, the care and adjustment of hoisting engines, the management and deficiency of pumps, ropes and window (windlass) apparatus, and as to his knowledge of the laws of this State in relation to signals and the hoisting and lowering of men at mines.

The State Mining Board shall have power to grant a permit to operate a second motion engine at any mine employing not more than ten men to any person recommended to the board by the State mine inspector of the district: Provided, that the applicant for such permit shall have filed with the State mining board satisfactory evidence that he is a citizen of the United States, that he has had at least one year's experience in operating a steam engine and steam boiler and understands the handling and care of the same. Such application shall be accompanied by a statement from at least three persons who will testify from their personal knowledge of the applicant that he is a man of good repute and personal habits, and that he has, in their judgment, a knowledge of and experience in handling boilers and engines, as required in this section. Such permit shall apply only to the mine for which it was issued.

EXAMINATION PAPERS PRESERVED.—(g) There shall be (a) written and an oral examination of applicants as may be prescribed by the rules of the board; and all written examination papers and all other papers of applicants shall be kept on file by the board for not less than one year, during which time any applicant shall have the right to inspect his said papers at all reasonable times; and any applicant shall be entitled to a certified copy of any or all of his said papers upon payment of a reasonable copy fee therefor.

SEC. 3. CERTIFICATES ISSUED BY THE BOARD.—(a) The certificates provided for in this Act shall be issued under the signature and seal of the State Mining Board, to all those who receive a rating above the minimum fixed by the rules of the board; such certificates shall contain the full name, age and place of birth of the recipient and the length and nature of his previous service in or about coal mines.

RECORD TO BE PRESERVED.—(b) The board shall make and preserve a record of the names and addresses of all persons to whom certificates are issued.

EFFECT OF CERTIFICATES.—(c) The certificates provided for in this Act shall entitle the holders thereof to accept and discharge at any mine in this State, the duties for which they are declared qualified.

UNLAWFUL TO EMPLOY OTHER THAN CERTIFICATED MINE MANAGERS.—(d) It shall be unlawful for the operator of any coal mine to have in his service as mine manager at his mine, any person who does not hold a certificate of competency

issued by the State Mining Board of this State: Provided, that whenever any exigency arises by which it is impossible for any operator to secure the immediate services of a certified mine manager, he may place any trustworthy and experienced man of the mine inspection district in charge of his mine to act as temporary mine manager for a period not exceeding seven days, and with the approval of the State inspector of the district, for a further period not exceeding twenty-three days.

UNLAWFUL TO EMPLOY OTHER THAN CERTIFICATED MINE EXAMINERS.—(e) It shall be unlawful for the operator of any mine to have in his service as mine examiner any person who does not hold a certificate of competency issued by the State Mining Board: Provided, that any one holding a mine manager's certificate may serve as mine examiner; but in any mine employing more than twenty-five (25) men, the mine manager shall not act in the capacity of mine examiner while acting as mine manager; And, provided, whenever an exigency arises by which it is impossible for any operator to secure the immediate services of a certificated examiner, he may employ any trustworthy and experienced man of the mine-inspection district to act as temporary mine examiner for a period not exceeding seven days, and with the approval of the State inspector of the district, for a further period not exceeding twenty-three days.

UNLAWFUL TO EMPLOY OTHER THAN CERTIFICATED HOISTING ENGINEERS.—(f) It shall be unlawful for the operator of any mine to permit any person who does not hold a certificate of competency as hoisting engineer issued by the State Mining Board, to hoist or lower men, or to have charge of the hoisting engine when men are underground, except as provided in section 2, paragraph (f).

TEMPORARY EMPLOYMENT OF UNCERTIFICATED PERSONS NOT EXTENDED.—(g) The employment of persons who do not hold certificate as mine managers and mine examiners shall in no case exceed the limit of time specified herein, and the State inspector shall not approve of the employment of such persons beyond the twenty-three day limit.

REMOVAL OF INSPECTORS.—(h) Upon a petition signed by not less than three coal operators, or ten coal miners, setting forth that any State inspector of mines neglects his duties, or that he is incompetent, or that he is guilty of malfeasance in office, or guilty of any act tending to the unlawful injury of miners or operators of mines, it shall be the duty of the State Mining Board to issue a citation to the said inspector to appear before it within a period of fifteen days on a day fixed for said hearing, when the said board shall investigate the allegations of the petitioners; and if the said board shall find that the said inspector is neglectful of his duty or is incompetent or that he is guilty of malfeasance in office, or guilty of any act tending to the injury of miners or operators of mines, the said board shall declare the office of said inspector vacant, and a properly qualified person shall be duly appointed, in the manner provided for in this Act, to fill said vacancy.

CANCELLATION OF CERTIFICATES.—(i) The certificate of any mine manager, hoisting engineer or mine examiner may be cancelled and revoked by the State Mining Board upon notice and hearing as hereinafter provided, if it shall be established in the judgment of said board that the holder thereof has become unworthy to hold said certificate by reason of violation of the law, intemperate habits, incapacity, abuse of authority or for any other cause: Provided, that any person against whom charges or complaints are made hereunder shall have the right to appear before said board and defend against said charges, and he shall have fifteen days' notice in writing of such charges previous to such hearing: Provided, further, that the board, in its discretion, may suspend the certificate of any person charged as aforesaid, pending such hearing, but said hearing shall not be unreasonably deferred.

SEC. 5. INSPECTORS APPOINTED.—(a) From the names certified by the State Mining Board, the Governor shall select and appoint twelve State mine inspectors; that is to say, one inspector for each of the twelve inspection districts provided for in this Act; or more, if, in the future, additional inspection districts shall be created, and their commissions shall be for a term of two years from July 1, provided the term of any State mine inspector in office July 1, 1911, shall be extended to October 1, 1911, and provided any State inspector in actual service and good standing and who has passed one examination under this Act may be reappointed for the next ensuing term, without further certification, but shall not be so reappointed more than three times: Provided, further, no man shall be eligible for appointment as a State inspector of mines who has any pecuniary interest in any coal mine in Illinois.

(b) The board of supervisors in counties under township organization or commissioners in counties not under township organization, of any county in which coal is produced, upon the written request of the State inspector of mines for the district in which said county is located, shall appoint, as assistant to such State inspector, a county inspector of mines who shall work under the direction of such State inspector, but no person shall be eligible for appointment as county inspector who does not hold a State certificate of competency as mine manager, and the compensation of such county inspector shall be fixed by the county board at not less than five dollars per day, to be paid out of the county treasury.

If any county board shall fail or refuse to appoint a suitable person as county mine inspector, or to make an adequate appropriation for such county mine inspector when appointed within ninety days after the filing of a written request by the State inspector of mines in and for the district in which such county is located, then the State mine inspector or chief clerk of the State Mining Board, may file a petition verified by oath in the county court of such county, setting forth the condition of coal mining in said county which requires the appointment of such county mine inspector, the request in writing as aforesaid by the State inspector, and the failure and refusal by the county board to make such appointment or such appropriation as the case may be; and the prayer of such petition shall be that the judge of such county court appoint a county mine inspector or order the county board to make such appropriation; and thereupon such county court shall cause summons to issue, commanding the sheriff of the county that he summon the county board to be and appear at a term of court therein named, returnable as summons in other suits at law, and to show cause, if any there be, why such county mine inspector should not be appointed as prayed in such petition; which summons may be served as other summons in which a corporation is defendant; which petition and any answer thereto may be set down for hearing before such county court at an early date; and if upon such hearing it shall appear to the court that sufficient cause has not been shown why such county mine inspector should not be appointed, such court may make a finding accordingly, and the judge thereof may make such appointment; and the order making such appointment shall be entered of record in the cause and the person so appointed shall act as such county mine inspector until the further order of court or until such time, not less than one year thereafter, as such county board shall have appointed a successor to the person appointed by the judge of such court, and such successor shall have qualified to act; and the judge of such court may in his discretion remove the inspector by him appointed and appoint a successor, and may order the county board from time to time to make an adequate appropriation for such county mine inspector and shall have power to punish as for contempt of court any disobedience to any such order.

An appeal shall lie from any final order of the county court in such proceeding to the appellate court of the State, but the operation of such order shall not thereby be stayed unless by an order made and entered by such appellate court or some judge thereof.

The State Inspector may authorize any county inspector in his district to assume and discharge all the duties and exercise all the powers of a State inspector in the county for which he is appointed, in the absence of a State inspector; but such authority must be conferred in writing and the county inspector must produce the same as evidence of his powers upon the demand of any person affected by his acts; and the bond of said State inspector shall be holden for the faithful performance of the duties of such assistant inspector.

BOND.—(c) State inspectors, before entering upon their duties as such, must take an oath of office, as provided for by the Constitution, and enter into a bond to the State in the sum of five thousand dollars (\$5,000) for State mine inspectors, with sureties to be approved by the Governor, conditioned upon the faithful performance of their duties in every particular, as required by this Act. Said bonds, with the approval of the Governor endorsed thereon, together with the oath of office, shall be deposited with the Secretary of State.

INSTRUMENTS.—(d) The State Mining Board shall furnish to each of said State inspectors an anemometer, a safety-lamp, and such other instruments and such blanks, blank-books, stationery, printing and supplies as may be required by said inspectors in the discharge of their official duties. Said instruments and supplies shall be paid for on bills of particulars certified by the proper officers of the board and approved by the Governor; and the Auditor of Public Accounts shall draw his warrants on the State treasury for the amounts thus shown to be due, payable out of any money in the treasury not otherwise appropriated.

EXAMINATION OF MINES. (e) State inspectors shall devote their whole time and attention to the duties of their respective offices. State inspectors shall make a personal examination at least once in every six months or oftener if necessary, of each mine in their district in which ten or more men are employed. The State Mining Board also may require State inspectors personally to examine any or all other mines in their respective districts. Every mine in the State shall be examined at least once in every six months by either a State or county mine inspector.

SCOPE OF EXAMINATION.—(f) Every State inspector in the regular inspection of mines shall measure with an anemometer and determine the amount of air passing in the last crosscut in each pair of entries in pillar and room mines, or in the last room of each division in long-wall mines. He shall also measure with an anemometer and determine the amount of air passing at the inlet and outlet of the mines; and he shall compare all such air measurements with the last report of the mine examiner and the mine manager upon the mine examination book of the mine. He must observe that the legal code of signals between the engineer and top man and bottom man is established and conspicuously posted for the information of all employees.

State inspectors also shall require that every necessary precaution be taken to insure the health and safety of the workmen employed in the mines, and that the provisions and requirements of all the mining laws of this State are obeyed.

State inspectors shall render written reports of mine inspections made by them to the State Mining Board in such form and manner as shall be required by the board. State Inspector(s) shall take prompt action for the enforcement of the penalties provided for violation of the mining laws.

AUTHORITY TO ENTER.—(g) It shall be lawful for State inspectors to enter, examine and inspect any and all coal mines and the machinery belonging thereto, at all reasonable times, by day or by night, but so as not to unreasonably obstruct or hinder the working of such coal mine, and the operator of every such coal mine is hereby required to furnish all necessary facilities for making such examination and inspection.

PROCEDURE IN CASE OF OBJECTION.—(h) If any operator shall refuse to permit such inspection or to furnish the necessary facilities for making such examination and inspection, the inspector shall file his affidavit, setting forth such refusal, with the judge of the circuit court in said county in which said mine is situated, either in term time or vacation, or, in the absence of said judge, with a master in chancery in said county in which said mine is situated, and obtain an order on such owner, agent or operator so refusing as aforesaid, commanding him to permit and furnish such necessary facilities for the inspection of such coal mine, or be adjudged to stand in contempt of court and punished accordingly.

NOTICES TO BE POSTED.—(i) The State inspector shall post in some conspicuous place at the top of each mine inspected by him, a plain statement showing what in his judgment is necessary for the better protection of the lives and health of persons employed in such mine, such statement shall give the date of inspection and be signed by the inspector. He shall post a notice at the landing used by the men, stating what number of men will be permitted to ride on the cage at one time and the rate of speed at which men may be hoisted and lowered on the cages.

NOTE.—Paragraphs (j) and (k) are on page 50.

INSPECTORS' ANNUAL REPORTS.—(l) Each State inspector of mines shall, within sixty days after June 30, of each year, prepare and forward to the State Mining Board a formal report of his acts during the year in the discharge of his duties, with any recommendations as to legislation he may deem necessary on the subject of mining, and shall collect and tabulate upon blanks furnished by said board all desired statistics of mines and miners within his district to accompany said annual report.

REPORTS TO BE PUBLISHED.—(m) On the receipt of said inspectors' reports the chief clerk of the State Mining Board shall compile and summarize the same, to be included in the report of said board, to be known as the Annual Coal Report, which shall, within four months thereafter, be bound, printed and transmitted to the Governor for the information of the General Assembly and the public. The printing and binding of said reports shall be provided for by the commissioners of State contracts in like manner and in like numbers as they provide for the publication of other official reports to the Governor.

REPORTS BY OPERATOR.—(n) Every coal operator shall within thirty days after June 30, of each year, furnish to the State mine inspector of the district, on blanks furnished by him prior to said June 30, statistics of the wages and conditions of their employees as required by law. The failure of any inspector to forward to the State Mining Board his formal report, as provided in paragraph (one) (1) hereof, or the failure of any coal operator to furnish to the State mine inspector of the district the statistics provided for herein, shall be adjudged a misdemeanor and be subject to a fine of \$100.

SEC. 6. PAY OF INSPECTORS.—Each State inspector of mines shall receive as compensation for his services the sum of eighteen hundred dollars (\$1,800) per annum and for traveling and other necessary expenses each shall receive the sum actually expended for that purpose in the discharge of his official duties: Provided, such expenses shall not exceed \$1,200 per annum for each State

inspector of mines, both salary and expenses to be paid monthly by the State Treasurer, on warrants of the Auditor of Public Accounts, from the funds in the treasury not otherwise appropriated; said expense vouchers shall show the items of expenditures in detail, with sub-vouchers for the same so far as it is practicable to obtain them. Said vouchers shall be sworn to by the inspector and be approved by the president of the State Mining Board and the Governor.

NOTE.—The remaining amendatory sections, 7, 9, 10, 15, 21, and 25, are under the appropriate title, Mining Operations. See page 233.

APPROPRIATIONS.

LAWS 1905, 62, P. 69.

MAY 18, 1905.

AN ACT to provide for the ordinary and contingent expenses of the State government, etc.

* * * * *

Thirty-seventh. * * *

State Mining Board for expenses including stenographer at \$720, the sum of \$6,000 per annum.

* * * * *

LAWS 1907-8, 17, P. 25 (ADJOURNED SESSION).

JUNE 4, 1907.

AN ACT to provide for the ordinary and contingent expenses of the State government, etc.

* * * * *

Forty-fourth. State Mining Board, for examination of candidates for certificates, etc., including salary of stenographer at \$720, \$6,000 per annum.

* * * * *

LAWS 1909, 77, P. 85.

JUNE 16, 1909.

AN ACT to provide for the ordinary and contingent expenses of the State government, etc.

SECTION 1. Be it enacted, etc.: That the following named sums be, and are hereby, appropriated to meet the ordinary and contingent expenses of the State government, etc.:

* * * * *

Forty-fourth. To the State Mining Board for expenses, etc. \$6,000 including salary of stenographer at \$720.

* * * * *

LAWS 1911, 90, P. 101.

JUNE 10, 1911.

AN ACT to provide for the ordinary and contingent expenses of the State government until the expiration of the first fiscal quarter after the adjournment of the next regular session of the General Assembly.

SEC. 1. Be it enacted, etc.: * * *

Forty-fourth. To the State Mining Board for the examination of the candidates for certificates as mine inspectors, mine managers, mine examiners and hoisting engineers, for per diem and expenses of the board in conducting such examinations, for clerk hire, oils, powder and incidental expenses, the sum of \$13,000 per annum.

LAWS 1911-12, 20, P. 31.

JUNE 6, 1912.

AN ACT to amend section 1 of an act entitled, "An Act, etc., (same as in section 1).

SECTION 1. Be it enacted, etc.: That section one of an Act entitled, "An Act to provide for the ordinary and contingent expenses of the State government until the expiration of the first fiscal quarter after the adjournment of the next

regular session of the General Assembly," approved June 10, 1911, in force July 1, 1911, be and the same is hereby amended to read as follows:

SEC. 1. That the following named sums, or so much thereof as may be necessary, respectively, for the purposes hereinafter named be and are hereby appropriated to meet the ordinary and contingent expenses of the State Government.

* * * * *

44. To the State Mining Board, for the examination of candidates for certificates as mine inspectors, mine managers, mine examiners and hoisting engineers, for per diem and expenses of the board in conducting such examinations, for clerk hire, oils, powder and incidental expenses, the sum of \$13,000 per annum or as much thereof as may be necessary.

45. To the State Mine Inspectors for actual expenses incurred in the discharge of their duties as provided by law the sum of \$12,000 per annum, or as much thereof as may be necessary of which sum not to exceed \$1,000 per annum shall be paid to any one inspector.

* * * * *

LAWS 1913, 95, P. 107.

JUNE 30, 1913.

AN ACT to provide for the ordinary and contingent expenses of the State Government, etc.

SECTION 1. Be it enacted, etc.: That the following named sums, or so much thereof as may be necessary, * * * be, and are hereby, appropriated to meet the ordinary and contingent expenses of the State Government, etc.

* * * * *

Forty-fourth. To the State Mining Board: For expenses per diem and traveling expenses, five members of the State Mining Board, \$5,000 per annum; for one stenographer and bookkeeper, \$1,200 per annum; one statistician, \$1,800 per annum; one clerk, \$1,500 per annum; for oil and powder testing, \$1,000 per annum; for postage and express, \$1,500 per annum; for telegrams and telephones, \$300 per annum; for incidental expenses, \$400 per annum.

LAWS 1915, 203, P. 215.

JUNE 29, 1915.

AN ACT to provide for the ordinary and contingent expenses of the State Government, etc.

SECTION 1. Be it enacted, etc.: That the following named sums be, and are hereby appropriated to meet the ordinary and contingent expenses of the State Government, etc.:

* * * * *

Thirty-ninth. To the State Mining Board: For president of the board, extra for preparing examination questions, \$150 per annum; for statistician, \$1,800 per annum; for department clerk, \$1,500 per annum; for stenographer, \$1,200 per annum; for assistant statistician and messenger, \$900 per annum; for postage, \$900 per annum; for printing, etc. \$200 per annum; for carpets and filing cabinet, \$300; for anemometers and safety lamps, \$250 per annum; for telephone, telegraph and express, \$525 per annum; for traveling expenses of 5 members and chief clerk, \$3,630 per annum; for repairs on instruments, \$50 per annum; for oil and powder testing, \$500 per annum; for rent of rooms for holding examinations, \$125 per annum.

MINERS' EXAMINING BOARD—EXAMINATION OF MINERS.

EVIDENCE OF COMPETENCY.

LAWS 1897, P. 268. (FOR ANNOTATIONS, SEE PAGE 245.) JUNE 7, 1897.

AN ACT in relation to the safety and the competency of coal miners, and to punish for infraction of the same.

SECTION 1. Be it enacted, etc.: That from and after the passage of this Act every person desiring to work by himself in rooms of coal mines in this State shall first produce satisfactory evidence to the mine manager of the mine in which he is employed, or desires to be employed, that he has worked at least two (2) years with or as a practical miner. Until said applicant has so satisfied the mine manager of the mine in which he seeks such employment of his competency, he shall not be allowed to mine coal unless accompanied by some competent coal miner, until he becomes duly qualified.

SEC. 2. Any violation of section one (1) of this Act shall work a forfeiture of the certificate of the manager of the mine where any such party or parties are employed.

NOTE.—Repealed by act of June 1, 1908 (Laws 1907-8, p. 90). See the following Act.

EXAMINATION AND CERTIFICATES.

LAWS 1907-8, P. 90 (ADJOURNED SESSION).

JUNE 1, 1908.

AN ACT to provide for the safety of persons employed in and about coal mines and to provide for the examination of persons seeking employment as coal miners, and to prevent the employment of incompetent persons as miners, and providing penalties for the violation of the same. (See page 439.)

SECTION 1. Be it enacted, etc.: That hereafter no person whosoever shall be employed or engaged as a miner in any coal mine in this State without having obtained a certificate of competency and qualification so to do from a "Miner's Examining Board" of some county of this State, except that any miner employed in the State when this Act becomes effective, who has been employed at least two years in the coal mines, shall be entitled to a certificate permitting him to work in the mines of this State as a practical miner: Provided, that the above provisions shall not prevent the employment of persons not having such certificate who are employed or engaged to work with or under the direction of a miner having such certificate, for the purpose of becoming qualified to receive such certificate under the provisions of this Act.

SEC. 2. In each county of the State where the business of coal mining is carried on, there shall be created a board to be styled the "Miners' Examining Board," to consist of three miners who shall be appointed by the circuit judges of the judicial district in which such county shall lie; such appointment to be made immediately after this Act shall go into effect, and annually thereafter at the first term of court in each year, all vacancies to be filled by such judges as they occur; and the members of such boards shall be experienced and skillful miners actually engaged in said business in their respective districts.

Each of said boards shall organize by electing one of the members president, and one member secretary; and every member of said board shall, within ten days after his appointment, take and subscribe an oath or affirmation before a properly qualified officer of the county in which he resides, that he will honestly and impartially discharge his official duties.

Members of said board shall receive as compensation for their services three 50-100 dollars (\$3.50) per day for each day actually engaged in their official duties, and all legitimate and necessary expenses incurred in attending the meetings of said board under the provisions of this Act, and no part of the salary of the said boards, or the expenses thereof shall be paid out of the State treasury.

SEC. 3. Each of said examining boards shall designate some convenient meeting place in their respective counties, of which due notice shall be given by advertisement in two or more newspapers of the proper county. At such meeting a book of registration shall be open in which shall be registered the name and address of each and every person to whom they have issued certificates of competency under this Act.

SEC. 4. Each applicant for examination for the certificate herein provided, shall pay a fee of one dollar, and the amount derived from this source shall be held by said boards and applied to the expense and salaries herein provided and such as may arise under the provisions of this Act. The said boards shall report in writing annually to the court appointing them and to the State inspectors of mines, all moneys received and disbursed under the provisions of this Act, together with the number of miners examined under this Act and the number failing to pass the required examination.

SEC. 5. It shall be the duty of said boards to meet on the first Wednesday of each month, but when said day falls on a legal holiday then the day following, and said meeting shall be public, and if necessary the meeting shall be continued to cover whatever portion may be required of a period of three days in succession, or for the first session of the respective boards hereunder such longer period as may be required to examine all applicants for examination presenting themselves, and examine under oath all persons who desire to be employed as miners in the respective counties; and said board shall grant such persons as may be qualified, certificates of competency or qualification which shall entitle the holders thereof to be employed as and to do the work of miners as may be expressed in said certificate and such certificates shall be good and sufficient evidence without an examination in any other county of the state of competency under this Act.

Every person applying for a certificate of competency, or to entitle him to be employed as a miner must produce evidence of having had not less than two years of practical experience as a miner or with a miner, and in no case shall an applicant be deemed competent unless he appear in person before the said board and orally answer intelligently and correctly at least twelve practical questions propounded to him by said board pertaining to the requirements of a practical miner. The said board shall keep an accurate record of the proceedings of their meetings and in said record shall show a correct detailed account of the examination of each applicant with questions asked and their answers and at each of these meetings the board shall keep said record open for public inspection. Any miners' certificate granted under the provisions of this Act shall not be transferable, and any transfers of the same shall be deemed a violation of this Act. Such certificates shall be issued only at meetings of said boards, and said certificates shall not be legal unless then and there signed by at least two members of such board.

SEC. 6. That no person shall hereafter engage as a miner in any coal mine without having obtained such certificate as aforesaid. And no person shall employ any person as a miner who does not hold such certificate as aforesaid, and no mine foreman or superintendent shall permit or suffer any person to be employed under him, or in the mines under his charge and supervision as a miner, who does not hold such certificate. Any person or persons who shall

violate or fail to comply with the provisions of this Act shall be guilty of a misdemeanor, and on conviction thereof shall be sentenced to pay a fine of not less than one hundred dollars and not to exceed five hundred dollars, or shall undergo imprisonment in the county jail for a term of not less than thirty days and not to exceed six months, or either, or both, at the discretion of the court.

SEC. 7. It shall be the duty of the several miners' examining boards to investigate all complaints or charges of non-compliance or violation of the provisions of this Act, and to prosecute all persons so offending; and it shall be the duty of the prosecuting attorney of the judicial district wherein the complaints or charges are made to investigate the same and prosecute all persons so offending, and it shall at all times be the duty of such prosecuting attorney to prosecute such members of the Miners' Examining Board as have failed to perform their duty under the provisions of this Act. Upon conviction of any member of the Miners' Examining Board for any violation of this Act, in addition to the penalties herein provided, his office shall be declared vacant, and he shall be deemed ineligible to act as a member of the said board.

SEC. 8. For the purpose of this Act the members of the said Miners' Examining Board shall have the power to administer oaths.

SEC. 9. An Act entitled "An Act in relation to the safety and competency of coal miners, and to punish for infraction of the same," approved June 7, 1897, in force July 1, 1897, is hereby repealed.

FIRST AMENDATORY ACT, 1909.

LAWS 1909, P. 234.

JUNE 5, 1909.

MINERS' EXAMINING BOARD.

AN ACT to amend an act entitled An Act (same as section 1).

SECTION 1. Be it enacted, etc.: That an Act entitled "An Act to provide for the safety of persons employed in and about coal mines, and to provide for the examination of persons seeking employment as coal miners, and to prevent the employment of incompetent persons as miners, and providing penalties for the violation of the same," approved June 1, 1908, and in force July 1, 1908, be and the same is hereby amended to read as follows:

SEC. 1. That hereafter no person whoever shall be employed or engaged as a miner in any coal mine in this State without having first obtained a certificate of competency and qualification so to do from a "Miners' Examining Board" of some county in this State: Provided, that any miner actually employed in this State when this Act becomes effective, who has been employed as a miner at least two years in coal mines, shall be entitled to a certificate permitting him to work in the mines of this State as a practical miner: And, provided, further, that any such certificated miner may have one uncertificated person working with him and under his direction for the purpose of learning said business of mining and becoming qualified to obtain a certificate in conformity with the provisions of this Act.

SEC. 2. In each county of this State where the business of coal mining is carried on, there shall be created a board to be styled "The Miners' Examining Board," to consist of three practical, experienced and skilful miners of at least five years' continuous experience, who are then actually engaged in mining coal in the county for which they are appointed. Such appointments shall be made by the county judges in their respective counties immediately after this Act shall be in effect, and on or before the 10th day of January in

each year thereafter, and all vacancies in said board shall be at once filled by the county judge of the county in which such vacancy occurs.

Each of said boards shall organize by electing one of the members president, and one member secretary; and every member of said board shall, within ten days after his appointment, take and subscribe an oath or affirmation before a properly qualified officer of the county in which he resides, that he will honestly and impartially discharge his official duties; each of said boards shall provide itself with an impression seal, having engraved thereon the name of said board and the county for which it is appointed.

Members of said board shall receive as compensation for their services three and fifty one-hundredths dollars (\$3.50) per day for each day actually engaged in their official duties, and all legitimate and necessary expenses incurred in attending the meetings of said board under the provisions of this Act, and no part of the salary of the members of said board, or the expenses thereof shall be paid out of the State treasury except as herein provided.

SEC. 3. Each of said examining boards shall designate some convenient meeting place in their respective counties, of which due notice shall be given by advertisement in two or more newspapers of the proper county. At such meeting a book of registration shall be open in which shall be registered the name and address of each and every person to whom said board shall issue a certificate of competency under this Act.

SEC. 4. Each applicant for examination for the certificate herein provided, shall pay a fee of one dollar, and the amount derived from this source shall be held by said boards respectively and applied to the expense and salaries herein provided and such as may arise under the provisions of this Act. The said boards shall report in writing quarterly to the court appointing them, all moneys received and disbursed under the provisions of this Act, together with the number of miners examined under this Act and the number failing to pass the required examination.

All moneys over and above the amount required to pay the salaries of the members of said board in the respective counties, and their necessary actual expenses while in the performance of their duty as such board shall be paid to the State Treasurer on the second Wednesday of each and every month, and the same shall be paid out by said State Treasurer only upon warrants issued by the county judge of the county for which such board was appointed.

Said warrants shall show on their face that they are for the payment of the salary and necessary actual expenses of the members of said board in such county.

SEC. 5. It shall be the duty of said boards respectively to meet on the first Wednesday of each month and to remain in session for a period of two days and no longer, and said meeting shall be public. The said board shall examine under oath all persons residing in the county in which said board resides who apply for certificates as provided in this Act, and said board shall grant such certificates of competency or qualifications to such applicants as are qualified, which certificates shall entitle the holders thereof to be employed as, and to do the work of miners in any county in this State, without other or further examination.

No certificate of competency shall issue or be given to any person under this Act unless he shall produce evidence of having had not less than two years of practical experience as a miner or with a miner, and in no case shall an applicant be deemed competent unless he appear in person before the said board and orally answer intelligently and correctly at least twelve practical questions propounded to him by the board pertaining to the requirements and qualifications of a practical miner.

The said board shall keep an accurate record of the proceedings of their meetings and in said record shall show a correct detailed account of the examination of each applicant with questions asked and their answers and at each of these meetings the board shall keep said record open for public inspection. Any miners certificate granted under the provisions of this Act shall not be transferable, and any transfer of the same shall be deemed a violation of this Act. Such certificates shall be issued only at meetings of said boards, and said certificates shall not be legal unless then and there signed by at least two members of said board, and sealed with the seal of the board issuing the certificates.

SEC. 6. That no person shall hereafter engage as a miner in any coal mine without having obtained such certificate as aforesaid. And no person shall employ any person as a miner who does not hold such certificate as aforesaid, and no mine foreman or superintendent shall permit or suffer any person to be employed under him, or in the mines under his charge and supervision as a miner, except as herein provided, who does not hold such certificate. Any person or persons who shall violate or fail to comply with the provisions of this Act shall be guilty of a misdemeanor, and on conviction thereof shall be sentenced to pay a fine of not less than one hundred dollars and not more than five hundred dollars, or shall undergo imprisonment in the county jail for a term of not less than thirty days and not to exceed six months, or both, at the discretion of the court.

SEC. 7. It shall be the duty of the several miners' examining boards to investigate all complaints or charges of non-compliance or violation of the provisions of this Act, and to prosecute all persons so offending; and it shall be the duty of the prosecuting attorney of the County wherein the complaints or charges are made to investigate the same and prosecute all persons so offending, and it shall at all times be the duty of such prosecuting attorney to prosecute such members of the Miners' Examining Board as have failed to perform their duty under the provisions of this Act. Upon conviction of any member of the Miners' Examining Board for any violation of this Act, in addition to the penalties herein provided, his office shall be declared vacant, and he shall be deemed ineligible to act as a member of the said board.

SEC. 8. For the purpose of this Act the members of the said Miners' Examining Board shall have the power to administer oaths.

SEC. 9. An Act entitled "An Act in relation to the safety and competency of coal miners, and to punish for infraction of same," approved June 7, 1897, in force July 1, 1897, is hereby repealed.

SECOND AMENDATORY ACT, 1913.

LAWS 1913, P. 438.

JUNE 27, 1913.

AN ACT to provide for the safety of persons employed in and about coal mines, and to provide for the examinations of persons seeking employment therein in order that only competent persons may be employed as miners, and to create a board of examiners for this purpose and to provide a penalty for a violation of the same, and to repeal an Act entitled, "An Act to amend an Act entitled, 'An Act to provide for the safety of persons employed in and about coal mines and to provide for the examination of persons seeking employment as coal miners, and providing penalties for the violation of the same,' approved June 1, 1908, in force July 1, 1908," approved June 5, 1909, in force July 1, 1909."

SECTION 1. Be it enacted, etc.: That hereafter no person shall be employed or engaged as a miner in any coal mine in this State without having first obtained a certificate of competency and qualification so to do from the "Miners' Exam-

ining Board" of this State, created by this Act: Provided, however, that any such certificated miner may have one person working with him and under his directions as an apprentice for the purpose of learning the business of mining and becoming qualified to obtain a certificate in conformity with the provisions of this Act.

SEC. 2. The Governor shall, by and with the advice and consent of the Senate, within thirty days after this Act shall take effect, appoint three persons as Miners' Examining Commissioners, who shall constitute the "Miners' Examining Board," for the State of Illinois, and who shall hold office as follows: One of said appointees shall hold office until March 1, 1914, one until March 1, 1915, and one until March 1, 1916, and on the first day of March of each year after this Act shall take effect, one member of said board shall be appointed and the term of office thereafter shall be three years for each member, or until his successor is appointed and qualified. Two of such commissioners shall constitute a quorum. Said commissioners shall hold no other lucrative office or employment under the government of the United States, State of Illinois, or any political division thereof or any municipal corporation therein and each commissioner before entering upon the duties of his office shall subscribe and take the oath prescribed by the Constitution of this State, and shall before entering upon the duties of his office give a bond with sufficient surety to be approved by the Governor, payable to the People of the State of Illinois, in the penal sum of five thousand dollars (\$5,000), conditioned for the faithful discharge of his duties of office and delivery of records, books, moneys, and other property pertaining to his office to his successor in office, which said bond shall be deposited in the office of the Auditor of Public Accounts.

SEC. 3. No person shall be appointed such miners' examining commissioner who has not had at least five years practical and continuous experience as a coal miner and who has not been actually engaged in coal mining as a miner in the State of Illinois continuously for twelve months next preceding his appointment: Provided, however, that a commissioner may be appointed to succeed himself.

SEC. 4. Each of said commissioners shall receive a salary of fifteen hundred dollars (\$1,500.00) per year, payable monthly, such salary to be paid on the certificate of the president of said board, verified by the commissioner receiving the same, and approved by the Governor.

SEC. 5. Immediately after the appointment or reappointment of a commissioner in each and every year, the said board shall organize by selecting one of its members president and another secretary for the ensuing year, and all records, reports, books, papers and other property pertaining to the office of said board shall be kept by the secretary. The secretary shall be provided with a seal with proper device and on the margin thereof shall be the words "Miners' Examining Board, State of Illinois."

SEC. 6. Such board shall hold an examination once in each calendar month, in at least twelve places located most conveniently with reference to the districts in which coal is mined in the State of Illinois so that all persons in such district or in this State, or who may wish to come into this State, for the purpose of engaging in mining, may be examined as to their competency and qualifications. Notice of the time and place of such examinations shall be published in some newspaper of general circulation printed in the English language and published in the vicinity where such examination will be held. Such notice shall be published at least three times before the date of such examination, the first publication not less than seven days before the examination is to occur. If there is

not such newspaper published at the place of such examination, then such notice shall be published in the newspaper nearest to the place of such examination.

SEC. 7. Each applicant for the certificate provided for herein shall pay a fee of \$2.00 to said board. Fees so collected during each month, shall, before the 10th day of the following month, be paid by the board to the State Treasurer, together with a report showing where and from whom each fee was collected.

SEC. 8. All examinations held by said "Miners' Examining Board" shall be conducted in the English language and shall be of a practical nature so as to determine the competency and qualification of the applicant to engage in the business of mining. Said board shall examine under oath all persons who apply for certificates as to their previous experience as miners and shall grant certificates of competency or qualification to such applicants as are qualified which certificates shall entitle the holder thereof to be employed as and to do the work of miners in this State. No certificate of competency shall issue or be given to any person under this Act unless he shall produce evidence of having had not less than two years' practical experience as a miner or with a miner, and in no case shall an applicant be deemed competent unless he appear in person before said board and orally answer intelligently and correctly at least twelve practical questions propounded to him by the board pertaining to the requirements and qualifications of a practical miner. Said board shall keep an accurate record of its proceedings and meetings and in said record shall show a correct detailed account of the examination of each applicant with questions asked and their answers, and at each of its meetings the board shall keep said record open for public inspection. No miner's certificate granted under the provisions of this Act shall be transferable and any effort to transfer the same shall be deemed a violation of this Act. Such certificates shall be issued only at meetings of said board and said certificates shall not be legal unless signed by at least two members of said board and sealed with the seal of the board issuing such certificates.

SEC. 9. Said board shall annually on the first day of March, report to the Governor, in writing, what examinations it has held and what work it has done during the preceding year, together with such recommendations as it may deem advisable for the improvement of the method of holding examinations and carrying out the purpose of this Act.

SEC. 10. No person shall hereafter engage as a miner in any coal mine without having obtained a certificate of qualification as provided for in this Act, nor shall any person, firm, or corporation employ as a miner in his, their or its mine in this State, any person who does not hold such certificate, nor shall any mine foreman, overseer, or superintendent permit or suffer any person to be employed under him or in any mines under his charge or supervision as a miner in any mine in this State, except as herein provided, who does not hold such certificate of qualification. Any person, firm or corporation who shall violate or fail to comply with the provisions of this Act, shall be deemed guilty of misdemeanor and on conviction thereof shall be fined in any sum not less than one hundred dollars (\$100.00), and not more than five hundred dollars (\$500.00), or shall be imprisoned in the county jail for a term of not less than thirty days, nor to exceed six months, at the discretion of the court.

SEC. 11. It shall be the duty of said "Miners' Examining Board" to report all complaints or charges of noncompliance with, or violation of the provisions of this Act to the State's Attorney of the county in which such non-compliance or violation occurs, and it shall be the duty of the State's Attorney of the county wherein the complaints or charges are made, to investigate the same and prosecute all persons so offending.

SEC. 12. In order to more effectively carry out the intention and purposes of this Act, the "Miners' Examining Board" shall have power to administer oaths to any and all persons who are applicants or may vouch in any manner for the service or qualification of any applicant in order to obtain for him a certificate hereunder, and any person who shall wilfully swear or falsely testify as to any matter material to such examination or as to the service or qualification of any applicant, shall be deemed guilty of perjury and shall be subject to the penalties thereof as prescribed by the criminal code of this State.

SEC. 13. The Governor shall have the power and authority to remove any of said commissioners for neglect of duty, incompetency, or malfeasance in office, and upon such removal shall appoint a successor.

SEC. 14. The validity of any section or part of this Act, shall in no manner affect the validity of any other part of this Act, exclusive of such invalid part or parts, if any.

SEC. 15. That an Act entitled, "An Act to amend an Act entitled, 'An Act to provide for the safety of persons employed in and about coal mines, and to provide for the examination of persons seeking employment as coal miners, and providing penalties for the violation of the same, approved June 1, 1908, in force July 1, 1908,' approved June 5, 1909, in force July 1, 1909," be and the same is hereby repealed.

THIRD AMENDATORY AND REPEALING ACT, 1915.

LAWS 1915, P. 525.

JUNE 29, 1915.

AN ACT to amend section 1, section 2, section 4 and section 6 of "An act, etc. (same as in section 1).

SECTION 1. Be it enacted, etc.: That section 1, section 2, section 4 and section 6 of an Act entitled "An Act to provide for the safety of persons employed in and about coal mines, and to provide for the examinations of persons seeking employment therein in order that only competent persons may be employed as miners, and to create a board of examiners for this purpose and to provide a penalty for the violation of the same, and to repeal an Act entitled, "An Act to amend an Act entitled, 'An Act to provide for the safety of persons employed in and about coal mines and to provide for the examination of persons seeking employment as coal miners, and providing penalties for the violation of the same,' approved June 1, 1908, in force July 1, 1908, approved June 5, 1909, in force July 1, 1909," approved June 27, 1913, in force July 1, 1913, be amended so as to read as follows:

SECTION 1. Be it enacted, etc.: That hereafter no person shall be employed or engaged as a miner in any coal mine in this State without having first obtained a certificate of competency and qualification so to do from the "Miners' Examining Board" of this State, created by this Act. Miners who now hold certificates heretofore issued by any board of county mine examiners of this State may be permitted on or before July 1, 1916, to produce before the Miners' Examining Board created by this Act, such county mine examiners' board certificate, or if the same shall have been lost or destroyed, satisfactory evidence of its issuance; thereupon, such miner shall be entitled to receive from the Miners' Examining Board created by this Act, the certificate herein provided for, which substitute certificate shall be issued without cost to said miner. After the first day of July, 1916, no miner's certificate of competency or qualification shall be recognized in this State, except those which have been or may be hereby issued by the Board created by this Act: Provided, however, that any such certified miner may have one person working with him and under his directions as an apprentice for the purpose of learning the business of mining

and becoming qualified to obtain a certificate in conformity with the provisions of this Act.

SEC. 2. The Governor shall, by and with the advice and consent of the Senate, within thirty days after this Act shall take effect, appoint three persons as Miners' Examining Commissioners, who shall constitute the Miners' Examining Board for the State of Illinois, and who shall hold office as follows: One of said appointees shall hold office until March 1, 1916, one until March 1, 1917, and one until March 1, 1918, and on the first day of March of each year after this Act shall take effect, one member of said board shall be appointed and the term of office thereafter shall be three years for each member, or until his successor is appointed and qualified. Two of such commissioners shall constitute a quorum. A complete record of the proceedings and acts of the board shall be kept and preserved. Said commissioners shall hold no other lucrative office or employment under the government of the United States, State of Illinois, or any political division thereof or any municipal corporation therein and each commissioner before entering upon the duties of his office shall subscribe and take the oath prescribed by the Constitution of this State, and shall before entering upon the duties of his office give a bond with sufficient surety to be approved by the Governor, payable to the People of the State of Illinois, in the penal sum of five thousand dollars (\$5,000), conditioned for the faithful discharge of his duties of office and the delivery of all records, books, moneys, and other property pertaining to his successor in office, which said bond shall be deposited in the office of the Auditor of Public Accounts.

The Secretary of State shall assign to the use of the Miners' Examining Board, suitable rooms in the State House.

SEC. 4. Each of said Commissioners shall receive as compensation for his services the sum of fifteen hundred (\$1500) dollars per year, and shall also receive his traveling and other necessary expenses actually expended in the discharge of his official duties; such expenses, however, shall not exceed the sum of twelve hundred dollars (\$1200) per annum for any one commissioner. Salary and expenses of said commissioner shall be paid monthly by the State Treasurer on the warrants of the Auditor of Public Accounts from funds in the hands of the Treasurer not otherwise appropriated; all expense accounts shall be itemized and verified by the commissioners receiving the same and shall be approved by the Governor.

SEC. 6. Such board shall hold an examination once in each calendar month, in at least twelve places located most conveniently with reference to the districts in which coal is mined in the State of Illinois so that all persons in such district or in this State, or who may wish to come into this State, for the purpose of engaging in mining, may be examined as to their competency and qualifications. Public notice of said examinations shall be given through the press or otherwise in the discretion of the board, not less than seven days in advance of such meeting, which notice shall fix the time and place at which any examination under this Act is to be held.

ANNOTATIONS.

1. CONSTITUTIONALITY OF STATUTE.
2. PURPOSE OF STATUTE—POLICE POWER.
3. MEMBERS OF BOARD—RESIDENCE AND QUALIFICATION.
4. CERTIFICATED MINERS—EMPLOYMENT—CAPACITY.
5. VIOLATION OF STATUTE—PENALTY.

1. CONSTITUTIONALITY OF STATUTE.

The act of June 5, 1909, is not unconstitutional on the ground that the members of the Miners' Examining Board are State officers and can only be appointed by the Governor. The members of the Miners' Examining Boards appointed for and performing their duties in the county wherein they are appointed have no jurisdiction to act outside the county in which they are appointed. The fact that the official acts of an officer are so far extra-territorial that they are binding throughout the State does not make the officer who performs such acts necessarily a State officer.

People v. Evans, 247 Ill. 547, p. 555.

The act of June 5, 1909, is not unconstitutional on the ground that county judges of the State cannot be invested with the power to appoint the Miners' Examining Boards.

People v. Evans, 247 Ill. 547, p. 557.

The statute is not unconstitutional on the ground that it discriminates in favor of the class of miners who were employed as miners when the act became effective or because it discriminates against the class of miners who were not so employed when the act became effective. It leaves the miner who had had two years experience in mining coal and was employed in mining coal in the State at the time the statute went into effect in the precise situation that he was in before it was passed, and permits him to continue his employment upon satisfying the Miners' Examining Board that he had been for two years engaged in mining coal and was engaged in mining coal in the State at the time the statute went into effect. It does not take from the miner who resides in the State or out of the State, and who had had two years' experience in mining, any privilege, right or immunity, but leaves such miner where it found him when the act was passed, without employment in a coal mine, and if he desires again to engage in mining, the statute requires that he may do so by passing an examination and otherwise complying with the act.

People v. Evans, 247 Ill. 547, p. 559.

The statute is not unconstitutional because the qualifications required of members of the Miners' Examining Boards exclude from such boards persons who are not practical and skillful miners of at least five years continuous experience and not actually engaged in the mining of coal in the county for which they are appointed. The right to be appointed or elected to an office is not a property right under the constitution, but a privilege and when an office is created by the legislature it may provide the qualifications required to hold such office and the fact that all the citizens of the state do not possess the qualifications required cannot affect the validity of a statute.

People v. Evans, 247 Ill. 547, p. 560.

The statute is not unconstitutional by the reason of the fact that it prohibits any person from entering a coal mine in the state unless he is selected, appointed or designated by some duly certificated miner. The statute provides that a certificated miner may have one uncertificated person working with him and under his direction for the purpose of learning the business of mining and qualifying to obtain a certificate in conformity to the statute. But the uncertificated persons mentioned are not to be selected and appointed by the certificated persons with whom and under whose direction they work, but such uncertificated persons must be employed by the mine owner or operator who pays them for their work.

People v. Evans, 247 Ill. 547, p. 562.

2. PURPOSE OF STATUTE—POLICE POWER.

The legislature in the exercise of the police power of the state may prescribe regulations for securing the admission of qualified persons to all callings which demand special knowledge, experience or skill and in no calling is there a more imperious demand for experience, knowledge and skill than in that of mining coal. The miner works underground by artificial light, surrounded by dangers, and unless protected from the negligence of operators and unskillfulness of his fellow miners a disaster may take place without a moment's warning, destroying the mine and all persons working therein, hence legislation is enacted for the purpose of protecting the miners from the negligent acts of mine operators. The purpose of this statute was to go a step further and protect the skilled workmen in coal mines as far as possible from the unskillfulness of unskilled laborers in the mine. This legislation was therefor provided with a view to make safe as far as possible the mining of coal, and concerning the preservation and health and lives of all that class of men who were engaged in mining coal in the state, and the statute is not in violation of the provisions of the constitution.

People v. Evans, 247 Ill. 547, p. 555.

3. MEMBERS OF BOARD—RESIDENCE AND QUALIFICATION.

This act does not require members of the Miners' Examining Boards to be appointed in the county in which they reside, but they must be "actually engaged in mining coal in the county for which they are appointed." The "residence" of the board means the place for which the members of the board may be appointed, and means a county in which they are actually engaged in the mining of coal.

People v. Evans, 247 Ill. 547, p. 561.

The residence of the Miners' Examining Board under the statute should be construed as authorizing the Miners' Examining Board of any county to examine all miners who reside in a county where no Miners' Examining Board has been appointed, or who reside outside of the state and desire to be examined with a view of becoming employed in coal mining in this state and in the county in which the board to which application for examination was made, has been appointed and was then in session. It is not intended to mean the county in which the members of the board may live.

People v. Evans, 247 Ill. 547, p. 561.

4. CERTIFICATED MINERS—EMPLOYMENT—CAPACITY.

A certificate under the act of 1909 authorizes the holder to be employed as and to do the work of miners. The certificate is evidence that the holder possesses the qualifications "to do the work of miners," but it does not necessarily show that he possesses the practical experience required of a shot firer.

Kulvie v. Bunsen Coal Co., 253 Ill. 386, p. 390.

This act amends the act of 1908 and provides that certificates shall be issued to applicants found qualified upon examination which shall entitle the holder to be employed as and do the work of miners. The certificate is evidence that the holder possesses the qualifications to do the work of miners, but does not necessarily show that he possesses the practical experience required of a shot-firer.

Kulvie v. Bunsen Coal Co., 253 Ill. 386, p. 390.

The statute does not authorize the employment of a miner as a shot-firer where his certificate of competency given him by the examining board gives him the right to seek employment as a "coal miner" merely and not as a "shot-firer."

Kulvie v. Bunsen Coal Co., 161 Ill. App. 617, p. 620.

Section 5 of the acts of 1907-8 and of 1909, and section 8 of the act of 1913, provide for examination and issuing of certificates to miners and require the board to keep an accurate record of the proceedings and to show a detailed account of the examination of each applicant. In an action where the question of the authority of a person to act as a certificated miner arises, proof of such fact must be made by the original record, unless it is shown that the production of such original record is impossible.

Kulvie v. Bunsen Coal Co., 161 Ill. App. 617, p. 621.

5. VIOLATION OF STATUTE—PENALTY.

The statute provides that no person shall engage as a miner in a coal mine without having obtained the proper certificate and makes the same a misdemeanor, but the act does not provide for a recovery of damages resulting from its violation.

Seghetti v. Berry Coal Co., 186 Ill. App. 263, p. 266.

There is a distinction and a difference between statutes that do and do not provide for the recovery of damages for injuries resulting from their violation.

Seghetti v. Berry Coal Co., 186 Ill. App. 263, p. 266.

MINERS' EXAMINING BOARD—APPROPRIATION.

LAWS 1913, 95, P. 107.

JUNE 30, 1913.

AN ACT to provide for the ordinary and contingent expenses of the State Government, etc.

SEC. 1. Be it enacted, etc.: That the following sums be, and are hereby, appropriated to meet the ordinary and contingent expenses of the State Government, etc.:

*	*	*	*	*	*	*
Forty-fifth.	*	*	*			
To the State Mine (Miners') Examining Board	\$3,600	per annum.				
*	*	*	*	*	*	*

APPROPRIATION.

LAWS 1915, 203, P. 215.

JUNE 29, 1915.

AN ACT to provide for the ordinary and contingent expenses of the State Government, etc.

SEC. 1. Be it enacted, etc.: That the following named sums be, and are hereby appropriated to meet the ordinary and contingent expenses of the State Government, etc.:

*	*	*	*	*	*	*
Forty-first. To the State Mine (Miner's) Examining Board, for clerk,	\$100	per month for twelve months the sum of \$1,200; for one stenographer	\$720.00	per annum; for stationery,	\$25	per annum; for typewriter and supplies,
\$100; for traveling expenses of members of the board,	\$3,600	per annum.				
*	*	*	*	*	*	*

MINERS' INSTITUTES.

MINERS' AND MECHANICS' INSTITUTES.

(REPEALED. SEE PAGE 439.)

LAWS 1911, P. 329.

MAY 25, 1911.

AN ACT to prevent accidents in mines and other industrial plants and to conserve the resources of the State by the establishment of Illinois Miners' and Mechanics' Institutes and for the administration and support of the same.

SECTION 1. Be it enacted, etc.: That in order to prevent accidents in mines and other industrial plants and to conserve the resources of the State, by the education and training of all classes of workers in and about the mines and other industrial plants of the State, there shall be established and maintained a form of educational betterment work, which shall be known as the Illinois Miners' and Mechanics' Institutes.

SEC. 2. That it shall be the purpose of such Illinois Miners' and Mechanics' Institutes to promote the technical efficiency of all persons working in and about the mines and other industrial plants of the State and to assist them to better overcome the increasing difficulties of mining and other industrial employments. In the development of this purpose, any and all means may be employed which promise to give desired results such as bulletins, traveling libraries, lectures, correspondence work, classes for systematic instruction, or meetings for the reading and discussion of papers.

SEC. 3. That the administration of the Illinois Miners' and Mechanics' Institutes, as provided in section 1 hereof, shall vest in the trustees of the University of Illinois; that all money appropriated by the State for the purpose of this Act shall be made available to said trustees; and that the said trustees be and hereby are authorized and directed to proceed with the work of the organization, maintenance and administration through their regularly authorized agents, aided by such other persons as in their judgment the work may require.

SEC. 4. The State Board of Contracts is hereby authorized and directed to provide all necessary printing for the Illinois Miners' and Mechanics' Institute, including such bulletins as may be published from time to time by the Illinois Miners' and Mechanics' Institutes.

APPROPRIATION.

LAWS 1913, 95, P. 119.

JUNE 30, 1913.

AN ACT to provide for the ordinary and contingent expenses of the State Government, etc.

SEC. 1. Be it enacted, etc.: That the following sums be, and are hereby, appropriated to meet the ordinary and contingent expenses of the State Government, etc.

* * * * *

Ninety-fifth. * * *

For Miners and Mechanics Institute, \$15,000 per annum.

* * * * *

MINERS' LIENS.

LABORERS' AND MINERS' LIENS.

LAWS 1895, P. 242.

JUNE 21, 1895.

WAGES OF MINERS AND LABORERS AT COAL MINES LIENS ON ALL PROPERTY.

AN ACT to protect laborers and miners for labor performed in developing and working in coal mines.

SECTION 1. Be it enacted, etc.: That every laborer or miner who shall perform labor in opening and developing any coal mine, including sinking shafts, constructing slopes or drifts, mining coal and the like, shall have a lien upon all the property of the person, firm or corporation owning, constructing or operating such mine, used in the construction or operation thereof, including real estate, buildings, engines, cars, mules, scales and all other personal property, for the value of such labor for the full amount thereof, upon the same terms, with the same rights and to be secured and enforced as mechanics' liens are secured and enforced.

ANNOTATIONS.

1. MINERS EMPLOYED BY RECEIVER.
2. CHARACTER OF WORK—APPLICATION OF STATUTE.

1. MINERS EMPLOYED BY RECEIVER.

Under this statute miners who were employed by a receiver and who performed any of the labor specified in this statute are entitled to hold and enforce a lien under the statute for the value of the labor performed, and where such receiver is authorized to operate and improve the mine in order to preserve it.

Traylor v. Barry, 96 Ill. App. 644, p. 649.

2. CHARACTER OF WORK—APPLICATION OF STATUTE.

Miners employed in the ordinary mining of coal are not entitled to have a lien declared and enforced for such labor against the real estate of a mine operator consisting of 80 acres of land, machinery and appurtenances.

Borders v. Uhe, 88 Ill. App. 634, p. 636.

The statute of 1895 gives a lien for labor in opening and developing a mine. Such labor may consist in sinking shafts, constructing slopes or drifts, mining coal or the like, but to entitle the laborer to a lien such labor is restricted to "opening and developing mines." The court will not presume that when the legislature used these limiting words that nothing was meant by them or by so using them a lien was intended to be given on the real estate and the appurtenances of a mine to every miner who dug coal in the mine after it was opened and developed.

Borders v. Uhe, 88 Ill. App. 634, p. 636.

MINERS' WAGES—PAYMENT.

TRUCK SYSTEM PROHIBITED.

LAWS 1891, P. 212.

MAY 28, 1891.

AN ACT to provide for the payment of wages in lawful money, and to prohibit the truck system, and to prevent deductions from wages except for lawful money actually advanced.

SECTION 1. Be it enacted, etc.: That it shall be unlawful for any person, company, corporation or association, now engaged or hereafter to be engaged in any mining or manufacturing business in this State, to engage in, or be interested in, directly or indirectly, in keeping of a truck store, or controlling of any store, shop or scheme for the furnishing of supplies, tools, clothing, provisions or groceries to his its or their employees while so engaged in mining or manufacturing.

SEC. 2. Every person, company, corporation or association found guilty of violating section 1 of this act, either by himself, its or their agents, servants or employes, or partners, shall be guilty of a misdemeanor for each and every day such business is done in violation of said section, and on conviction will be liable to a fine for each offense of not less than fifty (50) nor more than two hundred (200) dollars, to be recovered in the name of the people, for the use of the school fund, and any person having knowledge of the fact that said section has been violated, may make complaint and cause summons or warrant to be issued.

SEC. 3. It shall be unlawful for any person, company, corporation or association, employing workmen in this State, to make deductions from the wages of his, its or their workmen, except for lawful money, checks or drafts actually advanced without discount, and except such sums as may be agreed upon between employer and employe, which may be deducted for hospital or relief fund for sick or injured employees.

SEC. 4. Any deductions made from the wages of any workman in this State, except as provided in section 3 of this act, may be recovered in any appropriate actions before any court of competent jurisdiction, together with such reasonable attorney's fee as the court in its discretion shall think proper, and no offset or counter claim of any kind shall be allowed in such action or proceeding.

SEC. 5. All attempts to evade or avoid the provisions of this act, by contract or otherwise, shall be deemed a violation thereof, and for every violation, in addition to the civil remedy provided for in section 4, there shall, on conviction, be a fine imposed of not less than fifty (50) nor more than two hundred (200) dollars for each offense.

SEC. 6. Nothing in this act shall be so construed as to include the business of farmers, or farm laborers, or servants.

ANNOTATIONS.

CONSTRUCTION AND VALIDITY OF STATUTE.

The first section of this act makes it unlawful for a person or corporation engaged in mining or manufacturing, to engage or be interested directly or indirectly in keeping or controlling any truck store, shop or scheme for the

furnishing of supplies, groceries, provisions or clothing to employees. The application of the section is not confined to sales on credit, nor to sales of articles paid in work, and no exceptions are made because of peculiar circumstances or occasions, however urgently the necessities of individuals require that there should be exceptions, but it applies under any and all circumstances, to either keeping or controlling any store, shop or scheme for furnishing such supplies, provisions, groceries or clothing to employees by the operator of a mine or manufactory while engaged in mining or manufacturing.

Frorer v. People, 141 Ill. 171, p. 176;

Ramsey v. People, 142 Ill. 380, p. 384;

Kellyville Coal Co. v. Harrier, 207 Ill. 624, p. 627.

While the prohibition of this statute includes by name only the person, company, corporation or association engaged in mining or manufacturing, yet it includes equally within its scope their employees for the employee is necessarily denied the right to contract with one who is forbidden by the law to possess, for the purpose of contracting with him, the articles about which he wishes to contract. The legal meaning of the section would not be changed if it prohibited the employees from contracting with their employer for the purchase of the property in which it is made unlawful for their employer to have any ownership.

Frorer v. People, 141 Ill. 171, p. 176;

Kellyville Coal Co. v. Harrier, 207 Ill. 624, p. 629.

The prohibition of the statute operates not directly upon the business of mining but upon the individual because of his participation in that business. It is not imposed for the purpose of rendering mining less perilous, nor to restrict or regulate the duties of employer and employee in respects peculiar to this industry; but the statute imposes disabilities in contracting as to tools, provisions, clothing and food, matters as to which all laborers in every other branch of industry are permitted to contract with their employers without restriction. The statute prohibits a mine operator and a manufacturer from doing the enumerated things, but permits any person or corporation other than one engaged in mining and manufacturing to do the prohibited things. Employers in other industries may do for their pecuniary gain with impunity and have the law to protect them, but the miner and manufacturer under precisely the same circumstances and conditions are prohibited from doing for their pecuniary gain. The prohibited acts if done by a miner or manufacturer are unlawful and punishable by fine, but if done by any other persons or corporation is lawful and they are protected. Under these circumstances sections 1 and 2 of the act are repugnant to the Constitution and therefore invalid.

Frorer v. People, 141 Ill. 171, p. 17;

Braceville Coal Co. v. People, 147 Ill. 66, p. 70;

Whitebreast Fuel Co. v. People, 175 Ill. 51, p. 54;

Kellyville Coal Co. v. Harrier, 207 Ill. 624, p. 627.

WEEKLY PAYMENT.

LAWS 1891, P. 213.

APRIL 23, 1891.

AN ACT to provide for the weekly payment of wages by corporations.

SECTION 1. Be it enacted, etc.: That every manufacturing, mining, quarrying. * * * company shall pay weekly each and every employe engaged in its business, the wages earned by such employe to within six days of the date of such payment: Provided, however, that if at any time of payment any employe shall be absent from his regular place of labor, he shall be entitled to said payment at any time thereafter upon demand.

SEC. 2. Any corporation violating any of the provisions of this act shall be liable to a penalty not exceeding fifty dollars, and not less than ten dollars for each violation, to be paid to the People of the State, and which may be recovered in a civil action: Provided, an action for such violation is commenced within thirty days from the date thereof; any person may bring an action in the name of the People of the State, as plaintiff, against any corporation which neglects to comply with the provisions of this act for a period of two weeks, after having been notified in writing by such person that such action will be brought. On the trial of such action, such corporation shall not be allowed to set up any defense for a failure to pay weekly any employe engaged in its business the wages earned by such employe to within six days of the date of such payment, other than a valid assignment of such wages, or a valid set-off against the same, or the absence of such employe from his regular place of labor at the time of payment, or an actual tender to such employe at the time of payment of the wages so earned by him, or a breach of contract by such employe or a denial of the employment. No assignment of future wages payable weekly under the provisions of this act shall be valid if made to the corporation from whom such wages are to become due, or to any person on behalf of such corporation, or if made or procured to be made to any person for the purpose of relieving such corporation from the obligations to pay weekly under the provisions of this act. Nor shall any of said corporations require any agreement from any employe to accept wages at other periods than as provided in section 1 of this act, as a condition of employment.

SEC. 3. The penalties herein provided may be recovered in any court having civil jurisdiction by (of) such in the name of the person bringing the same.

NOTE.—This act is evidently impliedly repealed by the act of June 21, 1913. See page 110.

ANNOTATIONS.

CONSTRUCTION AND VALIDITY OF STATUTE.

The privilege of contracting is both a liberty and property right, and if one person is denied the right to contract and acquire property in the manner in which he hitherto enjoyed under the law and which other are still allowed under the law to enjoy, he is deprived of both liberty and property to the extent that he is thus denied the right to contract. The people, in their respective capacity may, by general law, render that unlawful in many cases which had hitherto been lawful, but laws depriving particular persons or classes of persons of rights enjoyed by the community at large to be valid, must be based upon some existing, distinct reason not applicable to others not included within the provision. The prohibitory provisions of this act are limited to mining and certain other named corporations while other corporations organized and doing business in the state and employing large numbers of men are not included in the list enumerated in this statute. No reason can be found that would require weekly payments to the employees of the corporations named that would not require like payment to the employees of the corporations not named. The act is therefore a restriction on the right to contract and is therefore unconstitutional.

Braceville Coal Co. v. People, 147 Ill. 66, p. 71;

Harding v. People, 160 Ill. 459, p. 465.

PAYMENT IN MONEY.

LAWS 1897, P. 270.

JUNE 3, 1897.

AN ACT to provide for the payment of coal miners for all coal mined by them, and providing additional duties for mine inspectors.

SECTION 1. Be it enacted, etc.: That every person engaged in mining coal for any corporation, company, firm or individual, shall be paid in lawful money of the United States for all coal mined and loaded into the mining car by such person for such corporation, company, firm or individual, including lump, egg, nut, pea and slack, or such other grades as said coal may be divided into, at such price as may be agreed upon by the respective parties.

SEC. 2. It shall be the duty of the mine inspector to ascertain whether or not the provisions of section 1 of this Act are being complied with in his district, and if he shall find that any corporation, company, firm or individual are violating the provisions of section 1 of this Act, it shall be his duty to at once have instituted suit in the name of the People of the State of Illinois, in some court of competent jurisdiction, for the recovery of the penalty provided for in this Act, and it shall be the duty of the State's Attorney of the county in which such suit is brought, when notified by the mine inspector, to prosecute such suit, as provided by law in other State cases.

SEC. 3. Every corporation, company, firm or individual violating the provisions of this Act shall be fined not less than \$25.00 nor more than \$200.00 for each offense.

Approved June 3, 1897, in force July 1, 1897.

ANNOTATIONS.

VALIDITY AND PURPOSE OF ACT—EFFECT ON CONTRACTS.

The court will not ascribe to the legislature an intention to reenact by this statute in a somewhat different form a provision designed to interfere with the freedom of contracting between citizens and which has been uniformly held to be an encroachment upon the liberty and rights of the employer and employee. Before the passage of this act the court had decided that it was not competent for the legislature to compel owners and operators of coal mines to make their contracts by the weight of the coal mined or to require the laborer to have his wages determined by weight.

Whitebreast Fuel Co. v. People, 175 Ill. 51, p. 53.

See *Millett v. People*, 117 Ill. 294.

It was the design of the legislature to eliminate from this act the objectionable features of former enactments by making contracts enforceable according to their terms instead of attempting to make contracts for the parties. It is made essential to a violation of this act that a price shall be agreed upon by the respective parties including the various grades of coal specified in the act. It may be satisfactory for the parties to agree upon a less price to be paid on the basis of "run of mine" or unscreened coal than when the payment is made on the basis of the screened product; and a contract at a higher price per ton for screened coal without any payment for nut and slack coal mined, is not a violation of the statute.

Whitebreast Fuel Co. v. People, 175 Ill. 51, p. 54.

See *Ramsey v. People*, 142 Ill. 380;

Harding v. People, 160 Ill. 459.

Where a coal mine operator paid to a miner for the coal mined by him under and pursuant to an agreement which had been carried out for six years, and

where the higher price per ton paid for screened lump coal was intended by the parties to the contract as payment for the coal mined, and where no price had been agreed upon by the parties for the payment of nut and slack coal mined, of which no account was taken by them, there is no violation of the statute, and under such circumstances an operator can not be held guilty on the ground that he failed to pay for the nut and slack coal mined.

Whitebreast Fuel Co. v. People, 175 Ill. 51, p. 55.

This act does not require that the same price shall be paid for each of the different grades into which coal may be divided, but only undertakes to require that the employer shall perform his contract by paying at such price as may be agreed upon by the operator and miner.

Whitebreast Fuel Co. v. People, 175 Ill. 51, p. 53.

SEMIMONTHLY PAYMENT.

LAWS 1913, P. 358.

JUNE 21, 1913.

AN ACT in relation to the semimonthly payment of wages and salaries by corporations for pecuniary profit, and providing penalty for violation of same.

SECTION 1. Be it enacted, etc.: That every corporation for pecuniary profit engaged in any enterprise or business within the State of Illinois, shall as often as semi-monthly pay to every employee engaged in its business all wages or salaries earned by such employee to a day not more than eighteen (18) days prior to the date of such payment. Any employee who is absent at the time fixed for payment, or who for any other reason is not paid at that time, shall be paid thereafter at any time upon six days' demand, and any employee leaving his or her employment or discharged therefrom, shall be paid in full following his or her dismissal or voluntary leaving his or her employment, at any time upon three days' demand. No corporation coming within the meaning of this Act, shall by special contract with employees or by any other means secure exemption from the provision of this Act. And each and every employee of any corporation coming within the meaning of this Act shall have his or her right of action against any such corporation for the full amount of his or her wages due on each regular pay day as herein provided in any court of competent jurisdiction of this State.

SEC. 2. Any corporation coming within the meaning of this Act violating section one (1) of this Act, shall be deemed guilty of a misdemeanor and fined in a sum not less than twenty-five dollars (\$25.00) or more than one hundred dollars (\$100.00) for each separate offense and each and every failure or refusal to pay each employee the amount of wages due him or her at the time, or under the conditions required in section 1 of this Act, shall constitute a separate offense.

NOTE.—This act evidently repeals by implication the act of April 23, 1891, requiring weekly payment of wages. See page 107.

MINERS' WASH ROOMS.

MINE OPERATORS TO PROVIDE WASH ROOMS.

LAWS 1903, P. 252.

MAY 14, 1903.

AN ACT to require owners and operators of coal mines to provide every coal mine with wash rooms for the use of the miners therein employed.

SECTION 1. Be it enacted, etc.: That every owner or operator of a coal mine in this State shall provide and maintain a wash room at a convenient place at the top of each mine for the use of the miners and other employes of such mine; and such wash room shall be so arranged that such miners and other employes may hang therein their clothes, for the purpose of drying the same.

SEC. 2. Any mine owner or operator who shall fail or refuse to comply with the provisions of this act shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined not more than one hundred dollars, and shall stand committed to the county jail until such fine is fully paid.

ANNOTATION.

STATUTE UNCONSTITUTIONAL.

This statute places upon mine owners or operators a burden not borne by other employers of labor and is special legislation and for that reason invalid. The evil at which this statute is aimed is one that is not visited alone on employers in coal mines. The legislature can not ameliorate the coal miners' condition under the guise of an exercise of the police power and leave others unaided who suffer from like causes. The fact that the constitution imposes upon the general assembly the duty to pass laws for the protection of operative miners does not save this statute from the charge of being unconstitutional, as the constitutional provision applies solely as respects their personal safety and does not include general health regulations.

Starne v. People, 222 Ill. 189, p. 193.

See Millett v. People, 117 Ill. 294;

Frorer v. People, 141 Ill. 171;

Braceville Coal Co. v. People, 147 Ill. 66;

Harding v. People, 160 Ill. 459;

Edin v. People, 161 Ill. 296;

Bailey v. People, 190 Ill. 28;

Spring Valley Coal Co. v. Greig, 226 Ill. 511, p. 517;

Morgan, In re, 26 Colo. 415;

People v. Solomon, 265 Ill., p. 32;

Spring Valley Coal Co. v. Greig, 129 Ill. App. 386, p. 392.

EMPLOYERS TO PROVIDE WASH ROOMS.

LAWS 1913, P. 359.

JUNE 26, 1913.

AN ACT to provide for wash rooms in certain employments to protect the health of employees and secure public comfort.

SECTION 1. Be it enacted, etc.: That every owner or operator of a coal mine, steel mill, foundry, machine shop, or other like business in which employees become covered with grease, smoke, dust, grime and perspiration to such extent

that to remain in such condition after leaving their work without washing and cleansing their bodies and changing their clothing, will endanger their health or make their condition offensive to the public, shall provide and maintain a suitable and sanitary wash room at a convenient place in or adjacent to such mine, mill, foundry, shop or other place of employment for the use of such employees.

SEC. 2. Such wash room shall be so arranged that employees may change their clothing therein, and shall be sufficient for the number of employees engaged regularly in such employment; shall be provided with lockers in which employees may keep their clothing; shall be provided with hot and cold water and with sufficient and suitable places and means for using the same; and during cold weather, shall be sufficiently heated.

SEC. 3. It shall be the duty of the State and county mine inspectors, factory inspectors and other inspectors required to inspect places and kinds of business required by this Act to be provided with wash rooms, to inspect such wash rooms and report to the owner or operator, the sanitary and physical condition thereof in writing, and make recommendations as to such improvements or changes as may appear to be necessary for compliance with the provisions of this Act.

SEC. 4. Any owner or employer who shall fail or refuse to comply with the provisions of this Act shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one hundred dollars.

SEC. 5. Any owner or employer who shall be convicted of a violation of the provisions of this Act, shall be subject to a conviction for succeeding offenses for each and every day he shall neglect or refuse to comply herewith.

ANNOTATIONS.

1. STATUTE CONSTITUTIONAL.
2. PURPOSE OF STATUTE.

1. STATUTE CONSTITUTIONAL.

This statute is not unconstitutional on the ground that the act places a burden upon employers of labor in certain employments, and not upon corporations and persons employing labor in similar employments; nor is it void as being unreasonable, uncertain and ambiguous.

People v. Solomon, 265 Ill. 28, p. 30.

If this act could be continued as an act intended directly to accomplish by different means the three-fold purpose of providing wash rooms, protecting the health of employees, and securing public comfort, then there might be the same ground for the contention that it is invalid because the act embraces more than one subject not expressed in the title.

People v. Solomon, 265 Ill. 28, p. 31.

The legislature can not require the owner or operators of coal mines only to provide and maintain wash rooms for their employees, as this would place upon the mine owner or operator a burden not borne by other employers of labor, and such an act would be special legislation and invalid. Any valid act of this kind must apply to all employers of labor similarly situated or to all employers of labor where conditions are such as would require wash rooms.

People v. Solomon, 265, Ill. 28, p. 32.

See *Starné v. People*, 222 Ill. 189.

The court in the construction of this act must assume that the legislature in its enactment had before it the decision of the court in the former case, and that the intention of the legislature was to avoid the defects in the former

law pointed out by the court and that it intended to enact a statute that would not be open to the same objections.

People v. Solomon, 265 Ill. 28, p. 33.

See *Starne v. People*, 222 Ill. 189.

This act is not invalid and unconstitutional because it enumerates certain specified employments and generalizes as to others. By a fair construction it applies not only to the employments named but to all other like businesses of an established or permanent character in which the "employees become covered with grease, smoke, dust, grime and perspiration to such extent that to remain in such condition after leaving their work without washing and cleaning their bodies and changing their clothing will endanger their health or make their condition offensive to the public." The law must be held to apply to employments in which the conditions exist that make such a law necessary and it cannot be special or class legislation.

People v. Solomon, 265 Ill. 28, p. 33.

2. PURPOSE OF STATUTE.

The purpose of this law is to promote the health and welfare of employees in certain lines of business where the conditions are such that every facility should be afforded for cleanliness, and to provide for the comfort and welfare of those with whom such employees come in contact after leaving their places of employment. The general assembly has the right under the police power of the State to enact such regulation, although it may to some extent interfere with private property rights and impose conditions on the use of the property. The legislature has the power to enact such laws as may be found necessary and appropriate to promote the health, comfort, safety, and welfare of society.

People v. Solomon, 265 Ill. 28, p. 34.

MINING CORPORATIONS.

FORMATION OF MINING CORPORATIONS.

LAWS 1849, P. 87.

FEBRUARY 10, 1849.

AN ACT to authorize the formation of corporations for manufacturing, agricultural, mining, or mechanical purposes.

SECTION 1. Be it enacted, etc.: That at any time hereafter, any three or more persons who may desire to form a company for the purpose of carrying on any kind of manufacturing, agricultural, mining or mechanical business, may make, sign, and acknowledge, before some officer competent to take the acknowledgement of deeds, and file in the office of the clerk in the county in which the business of the company shall be carried on, and a duplicate thereof in the office of the secretary of state, a certificate in writing, in which shall be stated the corporate name of the said company, and the objects for which said company shall be formed, the amount of capital stock of said company, the term of its existence not to exceed — years, the number of shares of which the said stock shall consist, the number of trustees and their names, who shall manage the concerns of said company for the first year, and the name of the town and county in which the operations of said company are to be carried on.

* * * * *

SEC. 10. All the stockholders of every company incorporated under this act shall be severally individually liable to the creditors of the company in which they are stockholders, to an amount equal to the amount of stock held by them respectively, for all debts and contracts made by such company, until the whole amount of capital stock fixed and limited by such company shall have been paid in, and a certificate thereof shall have been made and recorded as is prescribed in the following section; and the capital stock, so fixed and limited shall all be paid in, one-half within one year, and the other half thereof within two years from the incorporation of said company, or such corporations shall be dissolved.

* * * * *

SEC. 19. Any corporation or company heretofore formed, by special act or under the general law, and now existing for any manufacturing, agricultural, mining, or mechanical purposes, or any company which may be formed under this act, may increase or diminish its capital stock by complying with the provisions of this act, to any amount which may be deemed sufficient and proper for the purposes of the corporation, and may also extend its business to any other manufacturing, mining or mechanical business, subject to the provisions and liabilities of this act. * * *

* * * * *

AMENDATORY ACT, 1857.

LAWS 1857, P. 93.

FEBRUARY 13, 1857.

AN ACT to amend "An act to authorize the formation of corporations for manufacturing, agricultural, mining and mechanical purposes," approved February 10, 1849. (Laws 1849, p. 87.)

SECTION 1. Be it enacted, etc.: It shall be lawful for all companies formed and incorporated, or which shall hereafter be incorporated under the provisions of "An act to authorize the promotion of companies for manufacturing, agricultural, mining or mechanical purposes," approved February 10th, A. D. 1849, to sue for and collect any installment or subscription to stock due or to become due to said companies formed under said act in like manner as other debts are now collected, and before any court having jurisdiction of the amount claimed.

SEC. 2. This act to be deemed a public act and be in force from and after its passage.

MINING AND TRANSPORTATION COMPANIES.

LAWS 1852, P. 135.

JUNE 22, 1852.

AN ACT to authorize the formation of corporate companies for the purpose of mining and transportation, by general law.

SECTION 1. Be it enacted, etc.: That any three or more persons who may desire to form a company for the purpose of mining, or for the transportation of coal, or other products or commodities, may be incorporated for that purpose in the manner following, to wit: Such persons shall make, sign and acknowledge, before some officer authorized to take acknowledgements of deeds, articles of association, in which shall be fully set forth the description and kinds of business they propose to pursue, the name they assume, the location of the said company, which shall be within this state, the number of years it is to exist, which shall not exceed thirty years from the date of said articles, the amount of capital stock of said company, which shall in no case exceed three hundred thousand dollars, the amount and number of shares composing said stock, and such other particulars as may be deemed proper, and upon filing said articles of association, signed and acknowledged as aforesaid, in the office of the secretary of state, and a duplicate thereof in the office of the county clerk of the county wherein said company may be located, the persons aforesaid, and all persons who shall, from time to time, become stockholders and associates in said company, their heirs and assigns, shall be known by the name assumed, and considered in law a body corporate, and shall possess all the powers and privileges, and be subject to all the restraints and liabilities of bodies corporate; may have and use a common or corporate seal and alter the same at pleasure, and by their name assumed sue and be sued, plead and be impleaded, as natural persons, in all or any of the courts of this state having jurisdiction of the subject matter, and the copy of any such articles of association, filed in pursuance of this act, certified by the secretary of state, or by said county clerk or his deputy, to be a full and true copy of such articles of association, shall be taken in all courts and places as presumptive evidence of the facts therein stated and of the legal existence of said company.

SEC. 2. The stock, property and business of the said company shall be managed by not less than three or more than nine directors, who shall respectively be stockholders in said company, and one of whom shall be appointed president; and the said president and directors, or a majority of them, or a ma-

majority of the directors in the absence of the president, shall constitute a board or quorum for the transaction of business, and all questions shall be decided by a majority of votes. The first board of directors may be chosen or appointed at such time and place and in such manner as the members of said corporation may see proper, to hold their offices for one year and until their successors are elected to fill their places. After the first election or appointment the said board of directors shall be elected annually, by the stockholders of said company, at such time and place as shall be determined by the by-laws of said company; public notice of the time and place of holding such elections shall be published not less than thirty days previous thereto, in some newspaper published in the county, or nearest the place where the business of said company may be carried on, when there shall be no paper published in said county. The election shall be made by ballot, and by such of the stockholders as shall attend for that purpose, either in person or by proxy, and each stockholder shall be entitled to cast as many votes as he may own shares of stock in said company, and the person receiving the greatest number of votes shall be the director of said company for the year next ensuing, and until their successors shall be elected to take their places. When a vacancy shall occur in the board, by death or otherwise, it may be filled for the remainder of the term in such manner as shall be provided by the by-laws of said company, and in case it shall happen at any time that an election of directors shall not be made on the day designated by the by-laws of the company when it ought to have been made, the said company for that reason shall not be dissolved, but it shall be lawful on any other day to hold an election, upon notice as aforesaid, and all the acts of the directors shall be valid and binding as against said company, until their successors shall be elected and organized by the election of their president.

SEC. 3. The board of directors and their successors shall have power to make and pass such by-laws, rules and regulations for the government of said company and the management of its affairs and business, for the election of a secretary and treasurer, (or the secretary may act as treasurer, *ex officio*,) and such agents and servants as they may deem proper, prescribe their duties, fix their remuneration, require bonds for the faithful performance of their respective duties, and all other matters that shall be deemed necessary to promote the interest of said company, not inconsistent with this act, the laws and constitution of this state or of the United States—a copy of which, duly certified by the president, attested by the secretary and under the seal of said company, shall be filed in the office of the clerk of the county wherein said company shall be located, and shall be as binding on said company, its officers and agents, in every respect as if the same had been incorporated in this act. The said directors may cause books to be opened for subscriptions to their capital stock, in such manner and at such times and places as they shall deem proper, and issue certificates of stock to the said stockholders, and it shall be lawful for the directors to call in and demand from the stockholders, respectively, all such sums of money by them subscribed, at such times and in such payments or instalments as the directors shall deem proper, under the penalty of forfeiting the shares of stock subscribed for and all previous payments made thereon, if payment shall not be made by the stockholders, their heirs or legal representatives, within sixty days after a personal notice or demand, or notice requiring such payment shall have been published for six successive weeks in a newspaper published in the county in which said company is located, or in a newspaper published nearest thereto. The stock of said company shall be deemed personal property and transferable in such manner as shall be prescribed by the by-laws of said company, but no certificate of stock shall be

transferable until all calls and instalments are fully paid in, or whilst the holder of said certificates of stock shall be indebted to said company, without the written consent of the directors, and all or any transfer so made, without the written consent of the directors as aforesaid, shall be null and void as against said company. The said company shall have and hold the first lien on the stock for any and all debts due from the holder thereof to the said company, and may be reached by judgment and execution, the same as other personal property under the laws of this state, and when any such stock shall be declared forfeited to the company by reason of non-payment of the instalments thereon, or purchased in for debt at public sale, the same numbers and amounts may be again subscribed for by any other person, and certificates issued therefor, the same as if it had been an original subscription.

SEC. 4. The said company may purchase, hold, sell and convey at their pleasure, all such real estate as shall be deemed necessary for their interest and business operations, not exceeding at any one time twenty-five per centum of their capital stock, and to take and hold any real estate mortgaged or pledged as security for the payment of any debt due or to become due to said company, or to take and receive any real estate or other property in payment, or towards the satisfaction of any debt previously due to said company, and to hold the same until they can conveniently and advantageously sell and convert the same into money or other property. All conveyances of real estate to said company, and all bonds, notes, obligations or agreements with or to said company, shall be made in the corporate name of said company, and all conveyances of real estate made by said company shall be made in the corporate name thereof, signed and acknowledged by the president, bearing the seal of the company and attested by the secretary, and the same so made shall be valid in law or equity. All business transactions, and all notes, bills, bonds or obligations, made or entered into by said company, shall run in the name of said company, and may be signed by the president, secretary or agent of said company, as the said company may by their laws, rules or regulations determine. All suits for or against said company shall be brought, prosecuted or defended by the corporate (name) thereof, and all process against said company shall be by summons, and the service of the same shall be by leaving an attested copy thereof with the treasurer at least thirty days before the return thereof.

SEC. 5. Said company shall have power to possess, have and hold personal property to the extent that may be necessary for their business operations, and to sell, exchange or dispose of the same at pleasure, to borrow money and secure the payment thereof, by bond, mortgage or otherwise; to be the owner or part owner of docks, depots, warehouses, tenements, water-craft appliances, and every species of property necessary to carry out the object of their organization and for developing the resources of this state, by mining for coal or other minerals, transporting the same or other products, commodities, passengers or property, from or to their place of business, by land or water; to effect insurance upon their property; to divide their earnings and profits with the stockholders of said company, or to employ their funds in any other lawful manner.

SEC. 6. The said company shall keep at the office of their secretary or treasurer, at the place of their location, well bound and substantial books, in which shall be kept a full and correct record of the names of the stockholders, their place of residence, the amount held by each respectively, the date of the subscription, the amount paid in, and of all transfers of stock, the date of such transfer, from whom and to whom transferred; also a record of all the proceedings of the board of directors, by-laws, rules and regulations made for the government and management of the said company and its business operations;

which said books shall be subject to inspection at all reasonable times, during business hours, by any stockholder or creditor of said company, under the penalty of fifty dollars, to be recovered by suit against said company by any person who shall be refused the use and inspection of said books, being a stockholder or creditor of said company, at a proper time and upon request of the officers who may have the said book or books in charge, and at the end of each current year the said board of directors shall cause to be made out a tabular statement, showing the amount of the capital stock paid in, the amount of property owned by the company, real and personal, the amount of debts due to the company, and the amount of the said company's indebtedness, and also showing the profit or loss of said company; which said tabular statement shall be liable and subject to inspection, in the same manner and under the same penalty as is provided in relation to the books of said company. The said company in their corporate name may have their action at law or equity, before any court in this state having jurisdiction of the subject matter, and if the sum demanded be one hundred dollars or less, any justice of the peace shall have jurisdiction as in other cases against any and all persons in debt, damages or other action for the recovery of any debt or other matter, notwithstanding the said person or persons against whom suit is brought, may be stockholders in said company, and the law of partnership shall in nowise apply or be plead in bar or set up in defence of such action. The stock, property and effects of said company shall be liable and subject to execution for all debts due or owing by said company to any person or persons, company or corporation, and any transfer or assignment of property made by said company to any person, for the purpose of giving preference to any one or more of its creditors, shall be null and void as against all other creditors of said company. It shall not be lawful for said company at any time to contract debts, or be indebted at any one time in any amount over fifty per cent. of the amount of their capital stock actually paid in, and the directors of said company in office at the time of contracting such debts, and consenting thereto or assenting thereto, by not protesting against such contracting of debts, and giving notice of such protest, shall be jointly and severally liable for all such excess of debts over fifty per cent. of the amount of their capital stock actually paid in as aforesaid.

SEC. 7. This act shall be taken and considered as a public act, in all courts and places, shall be liberally construed in favor of any and all companies organized by virtue hereof, and shall take effect and be in force from and after its passage.

SEC. 8. The powers conferred by this act shall not be so construed as to authorize any company organized under the same to enter upon the business of transportation upon any waters within this state, for the purpose of carrying freight and passengers, or passengers only, but the word "transportation," whenever used in this act, shall be so construed as to confine said corporation to the transportation incident to and connected with their mining operations.

AMENDATORY ACT, 1865.

LAWS 1865, P. 23.

FEBRUARY 16, 1865.

AN ACT to amend an act entitled, "An act to authorize the formation of corporate companies for the purpose of mining and transportation," by a general law, approved June 22, 1852.

SECTION 1. Be it enacted, etc.: That the above entitled act be, and is hereby so amended as to allow said companies to invest such portion of their capital stock in such real estate as may be deemed necessary, for the successful prose-

cution of the business of mining and transportation, and also so amended as to allow persons forming themselves into such corporate companies to provide in their articles of association, that the stockholders shall constitute the board of directors provided for by said act, voting in person or by proxy, at all meetings of said company under such rules and regulations as may be prescribed in said articles of association.

FORMATION OF CORPORATIONS.

LAWS 1857, P. 161.

FEBRUARY 13, 1857.

AN ACT to authorize the formation of corporations for manufacturing, mining, mechanical or chemical purposes.

SECTION 1. Be it enacted, etc.: Any three or more persons who may desire to form a company for the purpose of carrying on any kind of manufacturing, mining, mechanical or chemical business may make, sign and acknowledge before some officer competent to take the acknowledgment of deeds, and file in the office of the clerk of the circuit court of the county in which the business of the company is to be carried on, and also in the office of the secretary of state, a certificate in writing, in which shall be stated the corporate name of the said company, the object for which it is formed, the amount of the capital stock thereof, the term of its existence, the number of shares of which the said stock shall consist, the number of directors, and the names of the persons who shall be directors for the first year, and the names of the town and county in which the operations of the said company are to be carried on.

* * * * *

AMENDATORY ACT, 1859.

LAWS 1859, P. 23.

FEBRUARY 24, 1859.

AN ACT to amend an act entitled "An act to authorize the formation of corporations for Manufacturing, Mining, Mechanical or Chemical purposes," approved February 13th, 1857. (Laws 1857, p. 161.)

SECTION 1. Be it enacted, etc.: That any corporations, formed under and by virtue of the aforesaid act, or any persons who may wish to form a corporation under the same, and who may be desirous of doing or carrying on business in more than one place or county, may file the certificates required to be filed by sections 1, 10 and 17 of said act in the clerk's office of the county in which their general office shall be kept; and in such case the certificate shall set forth in what town and county their general office will be kept.

SEC. 2. Any corporation formed under said act, for the purpose of carrying on mining or manufactures of wood, shall have the right to purchase and hold such mineral and timber lands as they shall deem essential to provide themselves with material for the future operation of said company.

ANNOTATIONS.

EMINENT DOMAIN—RIGHT OF WAY.

A corporation organized under the general corporation act for the purpose of mining and selling coal is not authorized to appropriate by condemnation proceedings a right of way for a tramway from its coal mine to a line of railroad, as its use would be a private use and not a public use in the sense of the constitution.

Sholl v. German Coal Co., 118 Ill. 427, p. 430.

See Millett v. People, 117 Ill. 294;

Edgewood Railroad Co's, App. 79 Pa. St. 257.

COMBINES, POOLS, TRUSTS, ETC.**LAWS 1891, P. 206.****JUNE 11, 1891.**

AN ACT to provide for the punishment of persons, copartnerships or corporations forming pools, trusts and combines, and mode of procedure and rules of evidence in such cases.

SEC. 1. Be it enacted, etc.: If any corporation organized under the laws of this or any other State or country, for transacting or conducting any kind of business in this State, or any partnership or individual or other association of persons whosoever, shall create, enter into, become a member of or a party to any pool, trust, agreement, combination, confederation or understanding with any other corporation, partnership, individual, or any other person, or association of persons, to regulate or fix the price of any article of merchandise or commodity, or shall enter into, become a member of or a party to any pool, agreement, contract, combination or confederation to fix or limit the amount or quantity of any article, commodity or merchandise to be manufactured, mined, produced or sold in this State, such corporation, partnership or individual or other association of persons shall be deemed and adjudged guilty of a conspiracy to defraud, and be subject to indictment and punishment as provided in this act.

SEC. 2. It shall not be lawful for any corporation to issue or to own trust certificates, or for any corporation, agent, officer or employes, or the directors or stockholders of any corporation, to enter into any combination, contract or agreement with any person or persons, corporation or corporations, or with any stockholder or director thereof, the purpose and effect of which combination, contract or agreement shall be to place the management or control of such combination or combinations, or the manufactured product thereof, in the hands of any trustee or trustees, with the intent to limit or fix the price or lessen the production and sale of any article of commerce, use or consumption, or to prevent, restrict or diminish the manufacture or output of any such article.

SEC. 3. (Punishment of corporation for violation.)

SEC. 4. (Punishment of officers for violation.)

SEC. 5. Any contract or agreement in violation of any provision of the preceding sections of this act shall be absolutely void.

SEC. 6. Any purchaser of any article or commodity from any individual, company or corporation transacting business contrary to any provision of the preceding sections of this act shall not be liable for the price or payment of such article or commodity, and may plead this act as a defense to any suit for such price or payment.

* * * * *

FIRST AMENDATORY ACT, 1893.**LAWS 1893, P. 89.****JUNE 20, 1893.**

AN ACT to amend an act entitled "An Act to provide for the punishment of persons, copartnerships, or corporations forming pools, trusts and combines."

NOTE.—This amendatory act adds two additional sections for enforcing the original act, but makes no other changes.

SECOND AMENDATORY ACT, 1897.**LAWS 1897, P. 298.****JUNE 10, 1897.**

AN ACT to amend section one of an act entitled, "An act, etc. (same as in section 1)."

SEC. 1. Be it enacted, etc.: That section one of an act entitled "An act to provide for the punishment of persons, partnerships, or corporations forming pools, trusts and combines, and mode of procedure and rules of evidence in such cases," approved June 11, 1891, in force July 1, 1891, be amended to read

as follows: If any corporation organized under the laws of this or any other state or country for transacting or conducting any kind of business in this State, or any partnership or individual or other association of persons who-soever, shall create, enter into, become a member of or a party to any pool, trust, agreement, combination, confederation, or understanding with any other corporation, partnership, individual or any other person or association of persons, to regulate or fix the price of any article of merchandise or commodity, or shall enter into, become a member of or party to any pool, agreement, contract, combination or confederation to fix or limit the amount or quantity of any article, commodity or merchandise to be manufactured, mined, produced or sold in this State, such corporation, partnership, or individual or other association of persons shall be deemed and adjudged guilty of a conspiracy to defraud and be subject to indictment and punishment as provided in this act: Provided, however, that in the mining, manufacture or production of articles of merchandise, the cost of which is mainly made up of wages, it shall not be unlawful for persons, firms or corporations doing business in this State to enter into joint arrangements of any sort, the principal object or effect of which is to maintain or increase wages.

NOTE.—This act purports to amend an act already amended.

ANNOTATIONS.

1. UNLAWFUL COMBINATIONS—SUFFICIENCY OF CHARGE.
2. MINING CORPORATIONS—CLASSIFICATION.
3. CONSTRUCTION AND VALIDITY OF STATUTE.
4. CONSTITUTIONALITY OF AMENDMENTS.

1. UNLAWFUL COMBINATIONS—SUFFICIENCY OF CHARGE.

A combination the tendency of which is to prevent general competition and to control prices is detrimental to the public and consequently unlawful.

Chicago, Wilmington & Vermilion Coal Co. v. People, 214 Ill. 421, p. 442;
 United States v. Jellico Mountain Coke & Coal Co., 47 Federal 432;
 Morris' Run Coal Co. v. Barkley Coal Co., 68 Pa. St. 173;
 Chicago, Wilmington & Vermilion Coal Co. v. People, 114 Ill. App. 75.

By this act it is made a criminal offense to enter into an agreement to regulate or fix the price of any article of merchandise or commodity manufactured, mined, produced, or sold in the State. A distinction is recognized between a conspiracy to do an illegal act and the actual performance of the act as provided by this antitrust act of 1891.

Chicago, Wilmington & Vermilion Coal Co. v. People, 214 Ill. 421, p. 453;
 Chicago, Wilmington & Vermilion Coal Co. v. People, 114 Ill. App. 75.

A mere tacit understanding between conspirators to work to a common purpose is all that is essential to a guilty actionable combination under this statute. Individual intent by two or three persons to do an unlawful act or a lawful act by unlawful means is the first step in that regard. Next follows concurrence between such persons, not concurrence of action merely, but concurrence in mental intent to effect the common purpose, each to aid the other in that regard. Mutuality in the undertaking may be secured without any express agreement and without a spoken or written word between the conspirators or a meeting of the members of the combine or their even all knowing each other, or the precise thing to be accomplished or plans for its accomplishment either in a general way or in detail being distinctly stated by any member of the combine to any other member. If there is a meeting of minds brought about in

any way to accomplish a common purpose the essentials of a guilty combination are all satisfied.

Chicago, Wilmington & Vermilion Coal Co. v. People, 214 Ill. 421, p. 453;
Chicago, Wilmington & Vermilion Coal Co. v. People, 114 Ill. App. 75.

Under this statute a charge that a conspiracy by the parties named was formed unlawfully, fraudulently, maliciously, wrongfully and wickedly, while not in the language of the statute, in effect charges the conspiracy to have been formed with the fraudulent or malicious intent wrongfully and wickedly to do an illegal act injurious to the public and is therefore sufficient.

Chicago, Wilmington & Vermilion Coal Co. v. People, 214 Ill. 421, p. 447;
Chicago, Wilmington & Vermilion Coal Co. v. People, 114 Ill. App. 75.

2. MINING CORPORATIONS—CLASSIFICATION.

The placing of corporations, including mining corporations, in a class by themselves and requiring them to file an anti-trust affidavit leaving individuals and partnerships liable to the penalties of the act provided for is not an illegal or arbitrary classification.

People v. Butler St. Foundry & Iron Co., 201 Ill. 236, p. 248.

The legislature has power to form classes for the purpose of police regulation if there is no arbitrary discrimination between persons or things in substantially the same situation.

People v. Butler St. Foundry & Iron Co., 201 Ill. 236, p. 256.

3. CONSTRUCTION AND VALIDITY OF STATUTE.

The act of June 11, 1891, was not repealed by the act of June 20, 1893, entitled, "An act to define trusts and conspiracies against trade and declaring contracts in violation of the provisions of this act void and making certain acts in violation thereof misdemeanors," etc. (Laws 1893, p. 182.) This intention on the part of the legislature was evidenced by the fact that upon the day on which the latter act was passed the former act was amended. This intention was further evidenced by the fact that the act of 1891 was again amended in 1897.

People v. Butler St. Foundry & Iron Co., 201 Ill. 236, p. 257.

The amendment of 1897 does not in terms repeal section 1 of the act of 1891. If any part of the act of 1891 is repealed it must be a repeal by implication and because the amendment is in conflict with the original act or a part thereof. The act of 1891 as amended by the act of 1893 is not repealed by implication by any act of 1893 or by the act of 1897.

People v. Butler St. Foundry & Iron Co., 201 Ill. 236, p. 259.

The act of 1891, as amended by the act of 1893, was a valid statute. That act, as amended, and the act of 1897 are separate and distinct acts passed by different legislatures, and the subsequent unconstitutional act of 1897, which is without force, can have no effect to overthrow and render void the legal and constitutional expression of the legislature as manifested by the act of 1891 as amended in 1893.

People v. Butler St. Foundry & Iron Co., 201 Ill. 236, p. 258.

4. CONSTITUTIONALITY OF AMENDMENTS.

The amendatory act of 1897 is unconstitutional and void as being an unlawful discrimination in favor of the persons sought to be exempted by the amendment from the operation of the act of 1891.

People v. Butler St. Foundry and Iron Co., 201 Ill. 236, p. 258;

Chicago, Wilmington & Vermilion Coal Co. v. People, 214 Ill. 421, p. 454.

OWNING STOCK IN RAILROAD COMPANIES.

LAWS 1893, P. 165.

JUNE 21, 1893.

AN ACT to authorize mining or manufacturing companies to own and hold shares of the capital stock and to own and hold securities of railroad companies whose roads shall connect the different plants of such mining or manufacturing companies with each other, or with other railroads, or harbors.

SECTION 1. Be it enacted, etc.: That any corporation organized or to be organized under and by virtue of any law of this State, for mining or manufacturing purposes, be and the same is hereby authorized to own and hold shares of the capital stock and to own and hold securities of any railroad company now or hereafter to be organized under any law of this State, when any such railroad or railroads shall connect the different plants of such mining or manufacturing companies with each other or with other railroads or harbors: Provided, that said mining or manufacturing companies shall not be permitted to hold stock in more than one railroad connecting the same points.

AMENDATORY ACT, 1897.

LAWS 1897, P. 285.

JUNE 11, 1897.

AN ACT to authorize mining or manufacturing companies to own and hold shares of the capital stock, and to own and hold securities of railroad companies whose roads shall connect the different plants of such mining or manufacturing companies with each other or with other railroads or harbors.

SECTION 1. Be it enacted, etc.: That an act entitled "An act to authorize mining or manufacturing companies to own and hold shares of the capital stock, and to own and hold securities of railroad companies whose roads shall connect the different plants of such mining or manufacturing companies with each other or with other railroads or harbors," approved on the 21st day of June, 1893, and in force on the 1st day of July, 1893, be and the same is hereby amended so as to read as follows:

SECTION 1. That any corporation organized, or to be organized, under and by virtue of any law of this State for mining or manufacturing purposes be and the same is hereby authorized to own and hold shares of the capital stock and to own and hold securities of any railroad company or companies when such railroad or railroads shall connect the different plants of such mining or manufacturing companies with each other or with other railroads or harbors: Provided, that said mining or manufacturing companies shall not be permitted to hold stock in more than one railroad connecting the same points.

MINING INVESTIGATING COMMISSION. COMMISSION TO INVESTIGATE MINING.

LAWS 1909, P. 55.

LAWS 1913, P. 43.

LAWS 1915, P. 80.

JUNE 10, 1909.

JUNE 21, 1913.

JUNE 29, 1915.

SEE PAGE 442.

AN ACT to establish the Mining Investigating [Investigation (1915)] Commission of the State of Illinois, and prescribing its powers and duties and making an appropriation therefor.

NOTE.—Changes made by the act of June 21, 1913, and the act of June 29, 1915, are shown in brackets.

SECTION 1. Be it enacted, etc.: That a commission be established to be known as the Mining Investigation Commission of the State of Illinois, consisting of three coal mine owners and three coal miners appointed by the Governor, together with three qualified men, no one of whom shall be identified or affiliated with the interests of either the mine owners or coal miners or dependent upon the patronage or good will of either, nor in political life, who shall be appointed by the Governor.

Each member of the said commission shall have equal authority, power and voting strength in considering and acting upon any matters which may be brought to the attention of the commission and on which the commission may act and the said commission shall have power and authority to investigate the methods and conditions of mining coal in the State of Illinois with special reference to the safety of human lives and property and the conservation of the coal deposits.

SEC. 2. In making any [an] investigation as contemplated in this Act, said commissioners shall have the power to issue subpoenas for the attendance of witnesses, which shall be under the seal of the commission and signed by the chairman or secretary of said commission.

In case any person shall willfully fail or refuse to obey such subpoena, it shall be the duty of the circuit court of any county, upon application of the said commissioners, to issue an attachment for such witness, and compel such witness to attend before the commissioners, and give his testimony upon such matters as shall be lawfully required by such commissioners; and the said court shall have the power to punish for contempt, as in other cases of refusal to obey the process and order of such court.

The fees of witnesses shall be the same as in [the] courts of record and shall be paid out of the appropriation hereinafter made.

And upon order duly entered of record by the said commission any one or more members of the said commission shall be empowered to take testimony touching the matters within the jurisdiction of the said commission and report the same to the said commission.

Said commission shall have power and are authorized to adopt a seal and to make such rules not inconsistent with or contrary to law for the government of proceedings before it, as it may deem proper and shall have the same power to enforce such rules and to preserve order and decorum in its presence as is vested by the common law or statute of this State in any court of general jurisdiction.

SEC. 3. Said commission shall meet at the State Capitol building in Springfield, on the second Tuesday after notice of their appointment and shall immediately elect a chairman and secretary from among their number, one of whom

shall be a coal mine owner and the other a coal miner. Said commission shall cause a record to be kept of all its proceedings.

Five members of the said commission shall constitute a quorum for the transaction of business, but a less number than a quorum may adjourn the meetings of the commission from time to time.

Meetings of the said commission other than called meetings, as provided for herein, may be held at such times and places within the State of Illinois, as may be fixed by the said commission.

A meeting of the said commission shall be held upon the written request of any three members of the said commission signed by them and delivered to the secretary, who shall, upon receipt of such request, notify each member of said commission by mail of such meeting so to be held, and the time and place thereof. And no such meeting shall be held less than five days after the mailing of notice of the said meeting to the members of said commission by the secretary.

Such called meeting shall be held either in Springfield or Chicago.

SEC. 4. Said commission shall report to the Governor and to the General Assembly at its next regular session, submitting so far as they have unanimously agreed, a proposed [provision (1913) (1915)] revision of coal mining laws of the State, together with such other recommendations as to the commission shall seem fit and proper, relating to coal mining in the State of Illinois.

And where there is not unanimous agreement upon any recommendation there shall be submitted in like manner separate reports embodying the recommendations of any one or more members of the said commission, which said reports shall each set forth in detail the recommendation of the commissioner or commissioners signing said report and shall embody his or their respective reasons for such recommendation and his or their objections to the reports [report] of other members of the commission. Upon the filing of the above mentioned reports, recommendations and objections, the duties and functions of said commission shall cease. [The duties and functions of said commission shall cease and the terms of office of the respective commissioners shall terminate upon the adjournment of the Forty-ninth (1913) (Fiftieth) (1915) General Assembly.]

SEC. 5. The members of said commission who are coal mine owners and coal miners, as aforesaid, shall receive no compensation for their services. The remaining three members of the commission shall receive as compensation for their services the sum of \$10.00 per day for each day actually employed by them as such commissioners. All members of the said commission shall be reimbursed for their actual expenses incurred in and about the actual work of said commission.

Said commission may appoint a stenographer or clerk and such other employees as are necessary and shall fix their compensation and may incur such other expenses as are properly incidental to the work of the commission.

SEC. 6. The sum of twenty-five thousand dollars (\$25,000) [ten thousand dollars (\$10,000.00) (1913) (seven thousand dollars (\$7,000.00) (1915))] or as much thereof as may be necessary, is hereby appropriated for the postage, stationery, clerical and expert services, and incidental traveling expenses of the commission, and the per diem of members as herein authorized, and the Auditor of Public Accounts is hereby authorized to draw his warrant for the foregoing amount or any part thereof, in payment of any expenses, charges or disbursements authorized by this Act, on order of this commission, signed by its chairman, attested by its secretary, and approved by the Governor.

The State Board of Contracts is hereby authorized and directed to provide all necessary printing for the mining investigation [investigating] commission, and testimony taken by it shall be reported in full and may be published from time to time by the commission. See page 442.

MINING LEASES—RELEASE.

OIL LEASES—RELEASE.

LAWS 1907, P. 409.

MAY 27, 1907.

AN ACT for the purpose of compelling oil or gas leases, when forfeited, to be released of record and providing a penalty therefor.

SECTION 1. Be it enacted, etc.: When any lease on land heretofore or hereafter taken for the purpose of prospecting for oil or natural gas or operating oil or gas wells upon lands so leased, shall become forfeited by the terms of said lease or the acts of the lessee, it shall be the duty of the lessee, his, her or their successors or assigns within sixty days from the date this Act shall take effect, if such forfeiture take effect prior thereto and within sixty days from day of forfeiture of any and all other leases, to have such lease or leases released of record in the county where such land is situated, without any cost to the owner or owners of the land; and any failure so to do shall constitute a misdemeanor and shall subject the offender to a fine of not more than two hundred dollars.

SEC. 2. Whenever the lessee of any oil or natural gas lands or the person, firm, company or corporation, only holding or having control of any such lease shall allow the same to become forfeited, or by his, her or their acts shall forfeit the same, and shall refuse, fail or neglect to cause the same to be released of record, the lessor or owner of said lands, may begin a civil action to compel said party to release the same of record and upon judgment being rendered decreeing said lease forfeited and directing the release, the said lessee, or his assigns, shall be decreed to pay all costs by such action, including a reasonable attorney fee to be taxed as costs.

RELEASE BY HEIRS, REPRESENTATIVES, ETC.

LAWS 1913, P. 437.

JULY 12, 1913.

AN ACT for the purpose of requiring lessee, his, her or their heirs, representatives, successors or assigns to release of record coal and other mineral leases, when forfeited, and providing a penalty for failure, refusal or neglect so to do.

SECTION 1. Be it enacted, etc.: When any lease on land heretofore or hereafter taken for the purpose of prospecting for coal or other mineral, or for the purpose of mining the coal or other mineral from said land, so leased, shall become forfeited by the terms of said lease or the acts of said lessee, his, her, or their heirs, representatives, successors or assigns, it shall be the duty of said lessee, his, her or their heirs, representatives, successor or assigns, within sixty days from the time this Act shall take effect, if such forfeiture take effect prior thereto, and within sixty days from the date of forfeiture of any and all other leases, to have such lease or leases, released of record in the county where such land is situated, without any cost to the owner or owners of the land; and any failure so to do after notice and demand shall constitute a misdemeanor and shall subject the offender to a fine of not more than two hundred dollars.

SEC. 2. Whenever the lessee of any coal or other mineral lands, or the person, firm, company or corporation, owning, holding or having control of any such lease shall allow the same to be forfeited, or by his, her or their acts shall forfeit the same, and shall refuse, fail or neglect to cause the same to be released of record in the county where said lands are situated, the lessor or owner of said lands may begin and maintain a civil action to compel said party to release the same of record and upon judgment being rendered decreeing said lease forfeited and directing the release, the said lessee, or the person, firm, company or corporation owning, holding or controlling said lease, shall be decreed to pay all costs accruing by said action, including a reasonable attorney fee to be taxed as cost.

NOTE.—Became law without Governor's approval July 1, 1913.

MINING OPERATIONS.

MINING REGULATIONS—ORIGINAL ACT 1872.

LAWS 1871-72, P. 568.

MARCH 27, 1872.

AN ACT providing for the Health and Safety of Persons employed in Coal Mines.

(Repealed. See page 146.)

SECTION 1. Be it enacted, etc.: That the owner or agent of each and every coal mine or colliery in this state, employing ten men or more, shall make or cause to be made, at the discretion of the inspector, or person acting in that capacity, an accurate map or plan of the workings of such coal mine or colliery, and of each and every vein thereof, showing the general inclination of the strata, together with any material deflections in the said workings, and the boundary lines of said coal mine or colliery, and deposit a true copy of said map or plan with the inspector of coal mines, to be filed in his office, and another true copy of said map or plan with the recorder of the county in which said coal mine or colliery is situated, to be filed in his office, both of which said copies shall be deposited as aforesaid, within three months from the day when this act shall go into effect; and the original, or a copy of such map or plan, shall also be kept for inspection at the office of such coal mine or colliery; and during the month of January of each and every year, after this act shall go into effect, the said owner or agent shall furnish the inspector and recorder, as aforesaid, with a statement and a further map or plan of the progress of the workings of such coal mine or colliery continued from the last report to the end of the December month just preceding; and the inspector shall correct his map or plan of said workings in accordance with the statement and map or plan thus furnished; and when any coal mine or colliery is worked out or abandoned, that fact shall be reported to the inspector, and the map or plan of such coal mine or colliery in the office of said inspector shall be carefully corrected and verified.

SEC. 2. Whenever the owner or agent of any coal mine or colliery shall neglect or refuse to furnish to said inspector and recorder, as aforesaid, with the statement, the map or plan, or addition thereto, as provided in the first section of this act, at the times and in the manner therein provided, the said inspector is hereby authorized to cause an accurate map or plan of the workings of such coal mine or colliery, to be made at the expense of the said owner or agent, and the cost thereof may be recovered by law from said owner or agent, in the same manner as other debts, by suit in the name of the inspector and for his use.

SEC. 3. In all coal mines or collieries that are, or have been in operation prior to the first day of July, in the year of our Lord 1872, and which are worked by or through a shaft, slope or drift, and in which more than fifteen miners are employed, if there is not already an escapement shaft to each and every said coal mine or colliery, or a communication between each and every said coal mine or colliery and some other contiguous mine, there shall be an escapement shaft, making at least two distinct means of ingress and egress for all persons employed or permitted to work in such coal mine or colliery. Such escapement shaft, or other communication with a contiguous mine as aforesaid shall be constructed in connection with every vein or stratum of coal worked in such coal

mines or collieries, and the time to be allowed for such construction shall be one year for each one hundred feet in depth of such escapement shaft so to be constructed, or fractional part thereof. And each and every such escapement shaft shall be separated from the main shaft by such extent of natural strata as shall secure safety to the miners, such distance to be left to the discretion of the inspector or person acting in that capacity. And in all coal mines or collieries that shall go into operation for the first time after the first day of July, in the year of our Lord 1872, such escapement shaft or other communication with a contiguous mine, as aforesaid, to be made for the purpose aforesaid, shall be constructed within one year after such mine shall have been put into operation, when the depth of such coal mine or colliery does not exceed one hundred feet. And in all coal mines that are of a greater depth than one hundred feet there shall be allowed one year within which to construct each hundred feet or fractional part thereof of such escapement shaft. And it shall not be lawful for the owner or agent of any such coal mine or colliery, as aforesaid, to employ any person to work therein, or to permit any person to go therein for the purpose of working, unless said owner or agent shall have first complied with the requirements of this section. And the term "owner" used in this act shall mean the immediate proprietor, lessee or occupier of any coal mine or colliery, or any part thereof; and the term "agent" shall mean any person having, on behalf of the owner, as aforesaid, the care and management of any coal mine or colliery, or any part thereof. (Amended. See page 133.)

SEC. 4. The owner or agent of each and every coal mine or colliery shall provide therefor an adequate amount of ventilation, by forcing, when practicable, the circulation of pure air through to the face of each and every working place in every such coal mine or colliery, so that every such coal mine or colliery shall be fit for men to work therein, and free from standing gas and from danger to health and life by reason of any noxious gas. The ventilation required by this section may be produced by any suitable appliances, but in case a furnace shall be used for ventilating purposes, it shall be built in such a manner as to prevent the communication of fire to any part of the works, by lining the up-cast with incombustible material for a sufficient distance up from the said furnace.

SEC. 5. The owner, agent or mining boss shall provide that bore holes shall be kept twenty feet in advance of the face of each and every working place—and, if necessary, on both sides—when driving towards an abandoned mine, or part of a mine, suspected to contain inflammable gases, or to be inundated with said furnace.

SEC. 6. The owner or agent of every coal mine or colliery, opened or operated by shaft or slope, shall provide a suitable means of signaling between the bottom and the top thereof, and shall also provide a safe means of hoisting or lowering persons at the mines, with a sufficient cover overhead on every box or carriage used for hoisting purposes, for the protection of persons so hoisted or lowered at the mines. And no young person under fourteen years of age, or female of any age, shall be permitted to enter any mine to work therein; proof of age to be made by sworn certificate or otherwise, before such young person shall be employed to work in such mine. The neglect or refusal of any person or party to perform the duties provided for and required to be performed by sections 4, 5 and 6 of this act, by the parties therein required to perform the same, shall be taken and deemed to be a misdemeanor committed by them or any or either of them, and upon conviction thereof they, or any or either of them, shall be punished by imprisonment or fine, at the discretion of the court trying the same. (Amended. See pages 132, 134.)

SEC. 7. No person shall, knowingly, be employed as engineer, or to take charge of any machinery or appliance whereby men are lowered into or hoisted out of any mine, but an experienced, competent and sober person; and no person shall ride upon a loaded wagon or cage used for hoisting purposes in any shaft or slope; nor shall any coal be hoisted out of any coal mine or colliery while persons are ascending out of or descending into any such coal mine or colliery. Any person violating the provisions of this section shall be held and deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by fine or imprisonment, at the discretion of the court trying the same. (Amended. See page 134.)

SEC. 8. All boilers used in generating steam in and about coal mines and collieries shall be kept in good order, and the owner or agent, as aforesaid, shall have said boilers examined and inspected by a competent boiler maker, or other well qualified person, as often as once every six months, and oftener if needed, and the result of every such examination shall be certified in writing to the mining inspector; and the top of each shaft shall also be securely fenced by vertical or flat gates, properly covering and protecting the area of such shaft; and the entrance of every abandoned slope and air, or other shaft, shall be securely fenced off; and every steam boiler shall be provided with a proper steam gauge, water gauge and safety-valve; and all underground self-acting or engine-planes or gangways, on which coal cars are drawn and persons travel, shall be provided with some proper means of signaling between the stopping places and the ends of said planes or gangways; and sufficient places of refuge at the sides of such planes or gangways shall be provided at intervals of not more than twenty feet apart.

SEC. 9. Whenever loss of life or serious personal injury shall occur, by reason of any explosion or of any accident whatsoever in or about any coal mine or colliery, it shall be the duty of the party having charge of such coal mine or colliery to give notice thereof to the mine inspector, and if any person is killed thereby, to the coroner of the county also, and said inspector shall immediately go to the scene of the said accident, and make such suggestions and render such assistance as he may deem necessary for the safety of the men. And the inspector shall investigate and ascertain the cause of such explosion or accident, and make a record thereof, which he shall preserve with the other records of his office. And to enable him to make such investigations he shall have power to compel the attendance of witnesses and administer oaths or affirmations to them; and the costs of such investigations shall be paid by the county in which such accident has occurred, in the same manner as costs of coroner's inquests are now paid. And the failure of the person in charge of the coal mine or colliery in which any such accident may have occurred, to give notice to the inspector or coroner, as provided for in this section, shall subject such person to a fine of not less than twenty-five dollars nor more than one hundred dollars, to be sued for in the name and for the use of the county in which any such accident may have occurred. (Amended. See page 135.)

SEC. 10. In all cases in which punishment is provided by fine or imprisonment under this act, for a breach of any of its provisions, the fine shall not be less than ten dollars nor more than one hundred dollars, or the imprisonment not less than ten days nor more than six months, or both, at the discretion of the court, except as specially provided in section 9 of this act.

SEC. 11. The county surveyors are hereby constituted ex officio inspectors of mines within their respective counties; and it shall be their duty respectively to call to their aid some reputable, practical miner. Said inspector, and any miner so called to their aid, before entering upon their duties, shall be sworn

to faithfully discharge the duties imposed upon them by law. Said inspector and said miner shall receive such compensation for their time actually employed, to be verified by their respective affidavits, as shall be fixed by the county board, not exceeding five dollars per day each, to be paid out of the county treasury. "For one inspection every year, but in all cases where, on inspection, the provisions of this act shall appear not to have been complied with in operating a mine, the owner or operator of such mine shall pay the expenses thereof, to be recovered, if necessary, as provided in section two (2) of this act. (Amended. See page 135.)

SEC. 12. The inspector provided for under this act shall see that every necessary precaution is taken to ensure the health and safety of the workmen therein employed, that the provisions and requirements of this act be faithfully observed and obeyed, and the penalties of the law enforced against all who willfully disobey its requirements. He shall also collect and tabulate the following facts, that is to say: The number of acres of workable coal lands in his county; the number and thickness of the coal beds, and their respective depths below the surface; how they are mined, whether by shaft, slope or drift; the number of mines in operation, the number of men employed therein, and the aggregate yearly production in tons; together with an estimate of the amount of capital employed in coal mining in his county, and any other information relative to coal mining that he may deem necessary; all of which facts, so tabulated, together with a statement of the condition of the mines as to safety and ventilation, and the general result of his examination into the causes of all accidents in and about the coal mines and collieries of his county, he shall fully set forth in an annual report to the governor, with his recommendations as to such other legislation on this subject as may be proper. He shall also furnish such information as he may have obtained on this subject, when called for by the state geologist.

SEC. 13. It shall be lawful for the inspector provided for in this act to enter, examine and inspect any and all coal mines or collieries, and the works and machinery belonging thereto, at all reasonable times by day or night, but so as not to hinder or obstruct the necessary working of such coal mines or collieries; and the owner or agent of every such coal mine or colliery is hereby required to furnish all necessary facilities for such entry, examination and inspection; and if the said owner or agent, as aforesaid, shall refuse to permit such inspection, or to furnish the necessary facilities therefor, the inspector may file his affidavit, setting forth such refusal, with the judge of the circuit in which said mine may be situated either in term time or in vacation, or in the absence of the judge, with the master in chancery for the county in which said mine may be situate, and obtain an order on such owner or agent so refusing as aforesaid, commanding him to permit and furnish such necessary facilities for the inspection of such coal mine or colliery, or be adjudged to stand in contempt of court, and punished accordingly; and if the said inspector shall, after an examination of any coal mine or colliery and the works and machinery pertaining thereto, find the same to be worked contrary to the provisions of this act, or unsafe for the workmen therein employed, said inspector may, through the state's attorney of his county, acting in the name and on behalf of the state, proceed against the owner or agent of any such coal mine or colliery by injunction, without bond, after giving at least two days notice to such owner or agent, and the said owner or agent shall have the right to appear before the judge or master to whom the application is made, who shall hear the same, and affidavits in support thereof as well as affidavits in opposition, and if sufficient cause appear, the court or judge in vacation may prohibit the further

working of any such coal mine or colliery in which persons may be unsafely employed, contrary to the provisions of this act, until the same shall have been made safe and the requirements of this act shall have been complied with; and the court shall award such costs in the matter of the said injunction as may be just; but any such proceedings, so commenced, shall be without prejudice to any other remedy permitted by law for enforcing the provisions of this act.

SEC. 14. For any injury to person or property occasioned by any wilful violations of this act, or wilful failure to comply with any of its provisions, a right of action shall accrue to the party injured for any direct damages sustained thereby; and in case of loss of life by reason of such wilful violation or wilful failure, as aforesaid, a right of action shall accrue to the widow of the person so killed, or his lineal heirs or adopted children, or to any other person or persons who were, before such loss of life, dependent for support on the person or persons so killed, for a like recovery of damages for the injuries sustained by reason of such loss of life or lives.

SEC. 15. Any miner, workman or other person who shall knowingly injure any water-gauge, barometer, air-course or brattice, or shall obstruct or throw open any air-ways, or carry lighted lamps or matches into places that are worked by the light of safety-lamps, or shall handle or disturb any part of the machinery of the hoisting engine, or open a door in the mine and not have the same closed again, whereby danger is produced either to the mine or those at work therein; or who shall enter into any part of the mine against caution; or who shall disobey any order given in pursuance of this act; or who shall do any wilful act whereby the lives and health of persons working in the mine, or the security of the mine or mines, or the machinery thereof, is endangered, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by fine or imprisonment, at the discretion of the court.

FIRST AMENDATORY ACT, 1873.

LAWS 1873, P. 126.

APRIL 24, 1873.

AN ACT to amend section 6 of an act entitled "An act providing for the health and safety of persons employed in coal mines," approved March 27, 1872.

SECTION 1. Be it enacted by the People of the State of Illinois, represented in the General Assembly, That section 6 of said act be amended so as to read as follows: The owner or agent of every coal mine or colliery, opened or operated by shaft or slope, shall provide a suitable means of signaling between the bottom and top thereof, and shall also provide a safe means of hoisting and lowering persons at the mines with a sufficient cover over head, on every box or carriage used for hoisting purposes, for the protection of persons so hoisted or lowered at the mines. And no young person, under twelve years of age, or woman, or girl of any age, shall be permitted to enter any mine to work therein. The neglect or refusal of any person or party to perform the duties provided for and required to be performed by sections 4, 5 and 6 of this act, by the parties therein required to perform the same, shall be taken and deemed to be a misdemeanor committed by them, or any or either of them, and upon conviction thereof, they, or any or either of them, shall be punished by imprisonment or fine, at the discretion of the court trying the same; subject, however, to the limitations as provided by section 10 of said act.

SIGNALS—EMPLOYMENT OF CHILDREN.

SECOND AMENDATORY ACT, 1873.

LAWS 1873-74, P. 122.

LAWS 1873, P. 110.

APRIL 24, 1873.

APRIL 24, 1873.

AN ACT to amend section 6 of an act entitled "An act providing for the health and safety of persons employed in coal mines," approved March 27, 1872.

SECTION 1. Be it enacted, etc.: That section 6 of said act be amended so as to read as follows:

The owner or agent of every coal mine or colliery, opened or operated by shaft or slope, shall provide a suitable means of signaling between the bottom and top thereof, and shall also provide a safe means of hoisting and lowering persons at the mines, with a sufficient cover over head, on every box or carriage used for hoisting purposes, for the protection of persons so hoisted or lowered at the mines. And no young person, under twelve years of age, or woman, or girl of any age, shall be permitted to enter any mine to work therein. The neglect or refusal of any person or party to perform the duties provided for and required to be performed by sections 4, 5 and 6 of this act, by the parties therein required to perform the same, shall be taken and deemed to be a misdemeanor committed by them, or any or either of them, and upon conviction thereof, they, or any or either of them, shall be punished by imprisonment or fine, at the discretion of the court trying the same; subject, however, to the limitations as provided by section 10 of said act.

NOTE.—The original section 6 has heretofore been amended.

THIRD AMENDATORY ACT, 1877.

LAWS 1877, P. 139.

MAY 23, 1877.

AN ACT To amend sections 3, 6, 7, 9, and 11 of an act entitled, "An act providing for the health and safety of persons employed in coal mines," approved March 27, 1872. Approved May 23, 1877. In force July 1, 1877.

SECTION 1. Be it enacted by the people of the State of Illinois, represented in the General Assembly, That sections 3, 6, 7, 9, and 11 of an act entitled "An act providing for the safety of persons employed in coal mines," approved March 27, 1872, be, and the same are hereby, amended so as (to) read as follows:

SEC. 3. In all coal mines or collieries that are, or have been in operation prior to the first day of July, in the year of our Lord, 1877, and which are worked by or through a shaft, slope, or drift, and in which more than ten miners are employed in each twenty-four hours, if there is not already an escapement shaft to each and every said coal mine or colliery, or a communication between each and every coal mine or colliery, and some other contiguous mine, then there shall be an escapement shaft or other communication, such as shall be approved by the mine inspector, making at least two distinct means of ingress and egress for all persons employed or permitted to work in such coal mine or colliery. Such escapement shaft or other communication with a contiguous mine as aforesaid, shall be constructed in connection with every vein or stratum of coal worked in such coal mine or colliery; and the time to be allowed for such construction shall be one year, when such mine is under 100 feet in depth, two years when such mine is over 100 feet in depth, and under 300 feet, and three years when it is over 300 feet, and under 400 feet, and four years, when it is over 400 feet in depth, from the time this act goes into

effect: Provided, This section shall not be so construed as to extend the time now allowed by law proving escapement shafts, or other communications. And in all cases where the working face of one mine has been driven up to, or into the workings of another mine the respective owners of such mine, while operating the same, shall keep open a roadway at least two and one-half feet high and four feet wide, thereby forming a communication as contemplated in this act; and for a failure to do so shall be subject to the penalty provided for in section ten of this act, for each and every day such roadway is unnecessarily closed. Each and every such escapement shaft shall be separated from the main shaft by such extent of natural strata as shall secure safety to the men employed in such mines or collieries; such distance to be left to the discretion of the mine inspector or person acting in that capacity. And in all coal mines or collieries that shall go into operation for the first time after the first day of July, A. D. 1887, such escapement or other communication with a contiguous mine as aforesaid, shall be constructed within one year after such mine shall have been put into operation. And it shall not be lawful for the owner or agent of any such coal mine or colliery, as aforesaid, to employ any person to work therein or permit any person to go therein, for the purpose of working, unless said owner or agent shall have first complied with the requirements of this section. And the term "owner" used in this act, shall mean the immediate proprietor, lessee or occupant of any coal mine or colliery, or any part thereof; and the term "agent" shall mean any person having, on behalf of the owner, the care or management of any coal mine or colliery, or any part thereof.

SEC. 6. The owner or agent of every coal mine or colliery, operated by shaft, shall provide suitable means of signaling between the bottom and top thereof, and shall also provide safe means of hoisting and lowering persons in a cage covered with boiler iron, so as to keep safe, as far as possible, persons ascending out of and descending into such shaft; and such cage shall be furnished with guides to conduct it on slides through such shaft, with a sufficient break on the drum to prevent accident in case of the giving out or breaking of the machinery, and whenever practicable such cage shall be furnished with springs or catches, intended and provided, as far as possible, to prevent the consequences of cable breaking, loosing or disconnecting of machinery. And no person under the age of twelve years, or female of any age, shall be permitted to enter any mine to work therein; the neglect or refusal of any party or person to perform the duties provided for and required to be performed by sections 4, 5, and 6 of this act, by the parties therein required to perform the same, shall be taken and deemed guilty of a misdemeanor, committed by them, or any or either of them, and shall be punished by imprisonment or fine at the discretion of the court trying the same, subject, however to the limitations as provided by section 10 of this act.

NOTE.—This is the third amendment of the original section 6.

SEC. 7. No person shall, knowingly, be employed as engineer or to take charge of any machinery or appliances whereby men are lowered into or hoisted out of any mine, but an experienced, competent and sober person; and no person shall ride upon a loaded wagon or cage used for hoisting purposes in any shaft or slope; nor shall any coal be hoisted out of any coal mine or colliery while persons are ascending out of or descending into any such coal mine or colliery; and the number of persons to ascend out of or descend into any coal mine or colliery on one cage shall be determined by the inspector. The maximum number so fixed shall not be less than six nor more than fifteen, nor shall they be lowered nor hoisted more rapidly than 600 feet to the

minute. Any person violating the provisions of this section shall be held and deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by fine or imprisonment, at the discretion of the court trying the same.

SEC. 9. Whenever loss of life, or serious personal injury shall occur by reason of any explosion, or of any accident whatsoever, in or about any coal mine or colliery, it shall be the duty of the person having charge of such coal mine or colliery to report the facts thereof without delay to the mine inspector of the county in which said coal mine or colliery is situated; and if any person is killed thereby to notify the coroner of the county also, or in his absence or inability to act, any justice of the peace of said county; and the said inspector shall, if he deem it necessary from the facts reported, immediately go to the scene of said accident, and make such suggestions and render such assistance as he may deem necessary for the safety of the men. And the inspector shall investigate and ascertain the cause of such explosion or accident, and make a report thereof, which he shall preserve with the other records of his office; and to enable him to make such investigations, he shall have power to compel the attendance of witnesses, and administer oaths or affirmations to them; and the cost of such investigation shall be paid by the county in which such accident has occurred, in the same manner as costs of coroners' inquests are now paid. And the failure of the person in charge of the coal mine or colliery in which any such accident may have occurred, to give notice to the inspector or coroner, as provided for in this section, shall subject such person to a fine of not less than twenty-five dollars nor more than one hundred dollars, to be recovered in the name of the People of the State of Illinois, before any justice of the peace of such county, and such fine when collected shall be paid into the county treasury for the use of the county in which any such accident may have occurred.

SEC. 11. The county boards in each county of this State in which mining is now, or may hereafter be carried on, are hereby authorized, and it is made their duty, to appoint one inspector of mines, at its September meeting, who shall have been a resident of the county, for which he is appointed, for one year previous to his appointment. He shall be required to enter into a bond to the county board of said county, for a sum to be fixed by said county board, conditioned upon the due and faithful discharge of his duties; said bond to be accompanied with good and sufficient security to be approved by said county board. He shall also take an oath of office as prescribed by the constitution, and he shall be required to furnish satisfactory evidence to said board that he has had sufficient practical experience in and around mines to enable him to discharge the duty of mine inspector intelligently, and to see that the provisions of this act are faithfully complied with. He shall not be interested as owner or stockholder in any mine or mines during his term of office. His term of office shall be one year, but he may be reappointed as often as the county board thinks proper. The county board of each county shall fix the number of days to be employed by the county inspector in inspecting the different mines of his county, and enter the same upon the records of said board. He shall receive such compensation for his time actually employed in the performance of the duties of his office, to be verified by his affidavit, as shall be fixed by the county board, to be not less than three dollars nor more than five dollars, per day, to be paid out of the county treasury. But in all cases where, on inspection, he finds the provisions of this act, or any of them, not complied with in operating any mine, it is made his duty to demand, and if necessary, compel by law, the collection from the owners or operators of such mine, of all expenses of said inspection, as provided in section two of this act.

SEC. 2. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

ANNOTATIONS.

1. INSPECTION BY SURVEYOR.
2. NOTICE OF ACCIDENTS—PERSON IN CHARGE.
3. OWNER OF MINE—LIABILITY FOR PENALTY.
4. ESCAPEMENT SHAFT—TIME FOR CONSTRUCTION.
5. SHAFTS—ENTRANCE PROTECTED.
6. SHAFT—LIGHTING—PROOF.
7. LIABILITY OF OPERATION FOR MISTAKES OF INSPECTOR.
8. APPLICATION AND PROTECTION OF STATUTE—WORKMAN.
9. FAILURE TO COMPLY WITH STATUTE—PROXIMATE CAUSE.
10. WILLFUL VIOLATION OF STATUTE.
11. UNDERGROUND WORKINGS—APPLICATION OF STATUTE.
12. CONTRIBUTORY NEGLIGENCE—KNOWLEDGE OF DANGER.
13. ACTION FOR DEATH—WHO MAY SUE—PLEADING.
14. DEATH OF MINER—ACTION BY WIDOW.
15. REPEAL.

1. INSPECTION BY SURVEYOR.

Section 11 of this statute provides for an inspection of mines by the county surveyor of each county, thereby making such surveyors *ex officio* inspectors of mines within their respective counties.

Sholl v. People, 93 Ill. 129, p. 130.

2. NOTICE OF ACCIDENTS—PERSON IN CHARGE.

Section 9 requires the person having charge of a mine, immediately upon the happening of an accident, to report the facts of the accident without delay to the mine inspector, and if a miner is killed to notify the coroner also. The duty of taking immediate action upon the occurrence of an accident is not imposed upon the "owner or agent" of a mine, as the owner might not be present, and for this reason the duty is imposed upon the "person in charge" of the mine, the person upon the ground at the time, who would have immediate knowledge of the accident and would be able to make immediate report and give the immediate notice required by the statute.

Sholl v. People, 93 Ill. 129, p. 130.

3. OWNER OF MINE—LIABILITY FOR PENALTY.

The penalty provided by section 9 of this statute can not be imposed upon the owner of a mine who at the time of an accident was not personally present and was not in charge of the mine and who had not been present at the mine for a period of six months prior to the accident.

Sholl v. People, 93 Ill. 129, p. 130.

The penalty imposed by section 9 of the amendatory act of 1877 (Laws of 1877, p. 141) is upon the "person in charge," of the mines and makes him personally liable for failure to give the notice required by the statute. That the section does not refer to the "owner or agent" is evident from the fact that the preceding sections use the words "owner or agent," but in section 9 these words are dropped and the words "person in charge" substituted, showing an intention on the part of the legislature to impose the penalty on the person in charge whether he is the agent or the owner.

Sholl v. People, 93 Illinois 129, p. 132.

4. ESCAPEMENT SHAFT—TIME FOR CONSTRUCTION.

A mine operator operating a coal mine to the depth of 330 feet prior to July 1, 1877, and in which more than 10 men were employed, and operating the same with one escapement shaft, is liable to the penalty imposed by that act if he failed to have constructed a completed and second escapement shaft on or before July 1, 1880; and the act of 1879 did not repeal the act of 1877 in this respect and did not extend the time for the construction of the second escapement shaft.

Hamilton v. State, 102 Ill. 367, p. 368.

The act of 1877 provides that in a mine of less than 100 feet deep the operator shall have two years, and if the mine is 100 feet and less than 300 feet he shall have three years, in which to construct the additional escapement shaft. The act went into force July 1, 1877, and accordingly the time for the construction of an additional escapement shaft in a mine over 300 feet deep would expire July 1, 1880.

Hamilton v. State, 102 Ill. 367, p. 368.

5. SHAFTS—ENTRANCE PROTECTED.

It is the duty of a mine operator under section 8 of this statute to protect the entrance to the shaft and in an action under section 14 to recover damages for injuries for an alleged failure to comply with the statute it is proper to show the entire condition at the entrance of the shaft.

Odin Coal Co. v. Denman, 84 Ill. App. 190, p. 196.

6. SHAFT—LIGHTING—PROOF.

Section 6 of this act requires a coal mine operator to make suitable provision for furnishing sufficient light at the top of the shaft, and in an action by an injured miner for damages for an alleged violation of the statute in failing to furnish sufficient light it is proper to show what means were employed to that end and how such means met the requirements.

Odin Coal Co. v. Denman, 84 Ill. App. 190, p. 196.

7. LIABILITY OF OPERATOR FOR MISTAKES OF INSPECTOR.

The statute does not provide how nor to what extent the examination should be made; but if a mine operator employs an examiner holding a certificate authorizing him to act as such, and such examiner makes an examination at the time required, this constitutes a compliance so far as the operator is concerned. A mere mistake of the examiner or a failure on his part to detect a defective place in the roof does not constitute a willfull neglect of the mine operator within the meaning of this statute.

Kellyville Coal Co. v. Hill, 87 Ill. App. 424, p. 426.

See Illinois Collieries Co. v. Davis, 137 Ill. App. 15, p. 19.

8. APPLICATION AND PROTECTION OF STATUTE—WORKMAN.

A person working in a coal mine must be regarded as a "workman" within the meaning of the statute when he is engaged in performing in the mine that character of labor which exposes him to the perils the statutes were designed to protect him against.

Mount Olive & Stanton Coal Co. v. Herbeck, 190 Ill. 39, p. 41;

Mount Olive & Stanton Coal Co. v. Herbeck, 92 Ill. App. 441;

Mount Olive & Stanton Coal Co. v. Rademacher, 190 Ill. 538, p. 543;

Kellyville Coal Co. v. Yehnka, 94 Ill. App. 74, p. 81.

9. FAILURE TO COMPLY WITH STATUTE—PROXIMATE CAUSE.

The object to be obtained by this statute was to prevent injuries to persons so employed in mining operations that the slightest degree of negligence might not prove fatal; and in a case where it is shown conclusively that if the mining company had complied with the provisions of the statute the accident would not have happened notwithstanding the manner in which the miner did his work, the mining company is liable in damages for an injury or death of a miner. Under such circumstances the injury was not occasioned by the negligence either of the miner or of a fellow servant, but was caused by the failure of the mine operator to comply with the provisions of the law.

Bartlett Coal & Min. Co. v. Roach, 68 Ill. 174, p. 175;
 Wesley City Coal Co. v. Healer, 84 Ill. 126, p. 128;
 Catlett v. Young, 143 Ill. 74, p. 80;
 Eldorado Coal & Coke Co. v. Swan, 227 Ill. 586, p. 591.
 See Brunnworth v. Kerens Coal Co., 260 Ill. 202, p. 218;
 Coal Run Coal Co. v. Coughlin, 19 Ill. App. 412, p. 415.

A mining company that failed for more than two years to comply with this statute in the matter of providing at least two distinct means of ingress and egress for the miners is liable for the death of a miner caused by falling down a shaft extending from the mine in which he worked to a mine below while attempting to escape from the mine on an alarm of fire, though the fire was purely accidental and there was, in fact, no real danger from the fire, as in such case the violation of the statute must be regarded as the proximate cause of the miner's death.

Wesley City Coal Co. v. Healer, 84 Ill. 126, p. 129.
 See Loescher v. Consolidated Coal Co., 259 Ill. 126, p. 129.

Section 8 of this act imposes upon all coal companies the obligation to erect gates at the top of the shaft and to use reasonable care to keep them safely closed at all times when it is not necessary to open them for use, and a failure to do this, and in consequence there is injury to an employee, the operator is liable under the statute and the law of fellow servants does not apply.

Coal Run Coal Co. v. Coughlin, 19 Ill. App. 412, p. 416.

10. WILFUL VIOLATION OF STATUTE.

The word wilful used in section 14 means a violation of the act or failure to comply with any of its provisions committed knowingly and deliberately.

Himrod Coal Co. v. Schroath, 91 Ill. App. 234, p. 237;
 Odin Coal Co. v. Denman, 185 Ill. 413.
 See Catlett v. Young, 143 Ill., p. 74.

Section 6 of this act requires coal mine operators to provide safe means of hoisting and lowering persons in their mines with a sufficient cover overhead on their box or carriage used for hoisting purposes for the protection of persons hoisted or lowered into the mines; and where a mine operator wilfully used an uncovered cage for hoisting and lowering miners into its mine, in violation of the statute, an action may be maintained for injuries resulting to a miner although the miner may not himself have been free from negligence.

Litchfield Coal Co. v. Taylor, 81 Ill. 599, p. 595;
 Catlett v. Young, 143 Ill. 74, p. 80;
 Coal Run Coal Co. v. Coughlin, 19 Ill. App. 412, p. 415.

The act of 1872 providing for the health and safety of persons employed in coal mines went into force on the 1st day of July of that year. In an action for the death of a miner that occurred on the 9th day of July, 1872, the question as to whether the mine operator had sufficient time in which by the

exercise of reasonable diligence to have complied with the provisions of the statute, was a question of fact. The mining company must have known when the act took effect and if not prepared to comply with its provisions it was its duty to suspend operations in its mines until the necessary preparations could be made, and a failure to do so must be regarded as wilful, especially where the company continued to operate its mine in defiance of the law.

Bartlett Coal & Min. Co. v. Roach, 68 Ill. 174, p. 175;
Odin Coal Co. v. Denman, 84 Ill. App. 190, p. 201.

A coal mine operator in good faith placed gates at the top of his mine shaft as required by the statute. But merely because the gate happened to be open, wilful negligence can not be imputed nor does it imply wilful disobedience of the statute, especially where the evidence shows that the gate was properly provided but by some mishap had been left open but not wilfully.

Coal Run Coal Co. v. Coughlin, 19 Ill. App. 412, p. 414.

11. UNDERGROUND WORKINGS—APPLICATION OF STATUTE.

Section 8 of the statute requiring that all underground self-acting or engine planes or gangways on which coal cars are drawn and persons travel, shall be provided with certain named safety appliances, applies to all underground, self-acting or engine planes, and also to all underground gangways on which coal cars are drawn and persons travel, whatever the motive power may be.

Sangamon Coal Min. Co. v. Wiggerhaus, 122 Ill. 279, p. 283.

12. CONTRIBUTORY NEGLIGENCE—KNOWLEDGE OF DANGER.

Under this statute contributory negligence is not a defense.

Catlett v. Young, 143 Ill. 74, p. 81.
See Catlett v. Young, 38 Ill. App. 198, p. 202.

In an action by a miner for damages for injuries caused by the failure of a coal mine operator to have the cage equipped as required by this statute, the knowledge only of the miner of the failure of the coal mine operator to have the mine provided with these protections will not defeat the action; and though the injured miner may not have been entirely free from fault the operator is liable if he was guilty of wilful violation of the statute.

Litchfield Coal Co. v. Taylor, 81 Ill. 590;
Bodell v. Brazil Block Coal Co., 25 Ind. App. 654, p. 658.
See Durant v. Lexington Coal Co., 97 Mo. 62.

13. ACTION FOR DEATH—WHO MAY SUE—PLEADING.

The right of action for the death of a miner is by this statute vested in the widow of the deceased, his lineal heirs, adopted children or other dependent persons; and an administrator of the deceased miner cannot maintain an action for damages.

Litchfield Coal Co. v. Taylor, 81 Ill. 590;
Maule Coal Co. v. Partenheimer, 155 Ind. 100, p. 108.

In an action by an administrator of a deceased miner against a coal mine operator for damages for the death of a miner, an averment that it was the duty of the mine operator to furnish props and prop the dirt or slate and other dangerous material that fell from the roof and caused the miner's death, does not show a violation of the statute and is not sufficient to charge negligence of the operator under common law rules.

Consolidated Coal Co. v. Yung, 24 Ill. App. 255, p. 256.
See Consolidated Coal Co. v. Scheller, 42 Ill. App. 619, p. 635, 638;
Consolidated Coal Co. v. Schieber, 65 Ill. App. 304, p. 309;
Consolidated Coal Co. v. Parson, 66 Ill. App. 434, p. 439.

14. DEATH OF MINER—ACTION BY WIDOW.

Under section 14 of this statute a widow is the proper person to bring an action for the death of her husband while working in a coal mine as she is expressly authorized by this section to bring the suit. This section in its relation to miners is special and must control as to all cases specially enumerated in the act itself, as against the general statute authorizing actions in the name of the personal representatives of a deceased.

Litchfield Coal Co. v. Taylor, 81 Ill. 590, p. 592.

See *Struthers v. People*, 116 Ill. App. 481, p. 486.

Where the operator of a coal mine before permitting any person to enter the mine causes it to be daily examined by a competent and duly authorized agent, who in good faith makes such examination to ascertain if there are any dangerous conditions thereof which render it unsafe for men to begin work, and upon such examination fails to find any such dangerous condition, and reports the mine to be in a safe condition when in fact it is not, the operator is not liable to the widow of a miner killed by reason of existing dangerous conditions, as section 14 only authorizes her to maintain an action where the act has been wilfully violated or its provisions wilfully not complied with. In such case it cannot be said that the operator had knowingly and deliberately failed to have the mine examined or had wilfully permitted the men to enter the mine before the same had been reported in a safe condition to begin work.

Himrod Coal Co. v. Schroath, 91 Ill. App. 234, p. 237.

15. REPEAL.

This act was repealed by an act of May 28, 1879 (Laws of 1879, p. 204), providing for the health and safety for persons employed in coal mines, except such parts as were expressly retained and kept in force by the proviso to section 3 of the act of 1879.

Hamilton v. State, 102 Ill. 367, p. 369.

MINING OPERATIONS.

FIRST GENERAL REVISION, 1879.

LAWS 1879, P. 204.

MAY 28, 1879.

AN ACT providing for the health and safety of persons employed in coal mines. Approved May 28, 1879. In force July 1, 1879.

SECTION 1. Be it enacted, etc.: That the owner or agent or operator of each and every coal mine in this State, employing ten men or more, shall make or cause to be made, at the discretion of the inspector, or person acting in that capacity, an accurate map or plan of the workings of such coal mine, and of each and every vein thereof, showing the general inclination of the strata, together with any material deflections in the said workings, and the boundary lines of said coal mine, and deposit a true copy of said map or plan with the inspector of coal mines, to be filed in his office, and another true copy of said map or plan with the recorder of the county in which said coal mine is situated, to be filed in his office, both of which said copies shall be deposited as aforesaid within three months from the day when this act shall go into effect; and the original or a copy of such map or plan, shall also be kept for inspection at the office of such coal mine; and during the month of January of each and every year after this act shall go into effect, the said owner, agent, or operator shall furnish the inspector and recorder, as aforesaid, with a statement and a further map or plan of the progress of the workings of such coal mine, continued from the last report to the end of the December month just preceding; and the inspector shall correct his map or plan of said workings in accordance with the statement and map or plan thus furnished; and when any coal mine is worked out or abandoned, that fact shall be reported to the inspector, and the map or plan of such coal mine in the office of said inspector shall be carefully corrected and verified. (Amended. See following act, page 146.)

SEC. 2. Whenever the owner, agent or operator of any coal mine shall neglect or refuse to furnish the said inspector and recorder, as aforesaid, with the statement, the map or plan, or addition thereto, as provided in the first section of this act, at the times and in the manner therein provided, the said inspector is hereby authorized to cause an accurate map or plan of the workings of such coal mine to be made at the expense of said owner, agent or operator, and the cost thereof may be recovered by law from said owner, agent or operator, in the same manner as other debts, by suit in the name of the inspector and for his use.

SEC. 3. In all coal mines that are, or have been in operation prior to the first day of July in the year of our Lord 1879, and which are worked by or through a shaft, slope or drift, and in which more than ten miners are employed in each twenty-four hours, if there is not already an escapement shaft to each and every said coal mine, or communication between each and every coal mine, and some other contiguous mine, then there shall be an escapement shaft for other communication, such as shall be approved by the mine inspector, making at least two distinct means of ingress and egress for all persons employed or permitted to work in such coal mine. Such escapement shaft or other communication with a contiguous mine as aforesaid, shall be constructed in connection

with every vein or stratum of coal worked in such coal mine; and the time to be allowed for such construction shall be one year when such mine is under 100 feet in depth; two years when such mine is over one hundred (100) feet in depth and under three (300) hundred feet, and three years, when it is over three hundred (300) feet and under four hundred (400) feet, and four years when it is over four hundred feet in depth, and five years for all mines over five hundred (500) feet, from the time this act goes into effect; and in all cases where the working force of one mine has been driven up to or into the workings of another mine, the respective owners of such mine, while operating the same, shall keep open a roadway at least two and one-half feet high and four feet wide, thereby forming a communication as contemplated in this act; and for a failure to do so shall be subject to the penalty provided for in section 10 of this act, for each and every day such roadway is unnecessarily closed, each and every such escapement shaft shall be separated from the main shaft by such extent of natural strata as shall secure safety to the men employed in such mines; such distance to be left to the discretion of the mine inspector or person acting in that capacity, and in all coal mines that shall go into operation for the first time after the first day of January, A. D. 1880, such an escapement or other communication with a contiguous mine as aforesaid, shall be constructed within one year after such mine shall have been put into operation. And it shall not be lawful for the owner, agent or operator of any such coal mine as aforesaid to employ any person to work therein, or permit any person to go therein for the purpose of working, except such persons as may be necessary to construct such an escapement shaft, unless the requirements of this section shall have first been complied with, and the term owner used in this act shall mean the immediate proprietor, lessee or occupant of any coal mine or any part thereof, and the term agent shall mean any person having on behalf of the owner the care or management of any coal mine or any part thereof: Provided,—nothing in this section shall be construed to extend the time allowed by law for constructing the escapement shafts. (Amended. See pages 147, 152, 155.

SEC. 4. The owner, agent or operator, of every coal mine, whether operated by shaft, slope or drift, shall provide and maintain for every such mine a sufficient amount of ventilation, to be determined by the inspector at the rate of one hundred cubic feet of air per man per minute, measured at the foot of the down-cast, which shall be forced and circulated to the face of every working place throughout the mine, so that said mine shall be free from standing gas of whatsoever kind; and in all mines where fire damp is generated every working place where such fire damp is known to exist shall be examined every morning with a safety lamp by a competent person, before any other persons are allowed to enter. The ventilation required by this section may be produced by any suitable appliances, but in case a furnace shall be used for ventilating purposes, it shall be built in such a manner as to prevent the communication of fire to any part of the works by lining the up-cast with incombustible material for a sufficient distance up from said furnace. (Amended. See pages 150, 152.

SEC. 5. The owner, agent or operator shall provide that bore holes shall be kept twenty feet in advance of the face of each and every working place, and if necessary, on both sides, when driving towards an abandoned mine or part of a mine suspected to contain inflammable [inflammable] gases, or to be inundated with water.

SEC. 6. The owner, agent or operator of every coal mine operated by shaft shall provide suitable means of signaling between the bottom and top thereof, and shall also provide a safe means of hoisting and lowering persons in a cage covered with boiler iron, so as to keep safe, as far as possible, persons descending into and ascending out of such shaft; and such cage shall be furnished with

guides to conduct it on slides through such shaft, with a sufficient brake on every drum to prevent accident in case of the giving out or breaking of the machinery; and such cage shall be furnished with spring catches intended and provided, as far as possible to prevent the consequences of cable breaking or the loosening or disconnecting of the machinery; and no props or rails shall be lowered in a cage while men are descending into or ascending out of said mine:—Provided, that the provisions of this section in relation to covering cages with boiler iron, shall not apply to coal mines less than one hundred feet in depth, where the coal is raised by horse power. No person under the age of twelve years, or females of any age, shall be permitted to enter any mine to work therein, nor shall any boy under the age of fourteen, unless he can read and write, be allowed to work in any mine, any party or person neglecting or refusing to perform the duties required to be performed by sections 4, 5, 6, 7, and 8, shall be deemed guilty of a misdemeanor, and punished by fine in the discretion of the court trying the same, subject, however to the limitations as provided by section 10 of this act. (Amended. See page 147.)

SEC. 7. No owner, agent or operator of any coal mine, operated by shaft or slope, shall place in charge of any engine, whereby men are lowered into or hoisted out of the mines, any but an experienced, competent and sober person not under the age of 18 years; and no person shall ride upon a loaded cage or wagon used for hoisting purposes in any shaft or slope, and in no case shall more than twelve persons ride on any cage or car at one time, nor shall any coal be hoisted out of any coal mine while persons are descending into such coal mine; and the number of persons to ascend out of or descend into any coal mine, on one cage shall be determined by the inspector, the maximum number so fixed shall not be less than four, nor more than twelve, nor shall be lowered or hoisted more rapidly than six hundred feet to the minute.

SEC. 8. All boilers used in generating steam in and about coal mines shall be kept in good order, and the agent, owner or operator, as aforesaid, shall have said boilers examined and inspected by a competent boiler maker, or other qualified person, as often as once every six months, and oftener if the inspector shall deem it necessary, and the result of every such examination shall be certified, in writing, to the mine inspector; and the top of each and every shaft, and the entrance to each and every intermediate working vein, shall be securely fenced by gates properly covering and protecting such shaft and entrance thereto; and the entrance to every abandoned slope, air or other shaft shall be securely fenced off; and every steam boiler shall be provided with a proper steam gauge, water gauge and safety valve; and all underground, self-acting or engine planes, or gangways, on which coal cars are drawn and persons travel, shall be provided with some proper means of signaling between the stopping-places and the end of said planes or gangways, and sufficient places of refuge at the sides of such planes or gangways shall be provided at intervals of not more than twenty feet apart.

SEC. 9. Whenever loss of life, or serious personal injury shall occur by reason of any explosion, or of any accident whatsoever, in or about any coal mine, it shall be the duty of the person having charge of such coal mine to report the facts thereof, without delay, to the mine inspector of the county in which said coal mine is situated; and if any person is killed thereby, to notify the coroner of the county also, or, in his absence or inability to act, any justice of the peace of said county; and the said inspector shall, if he deem it necessary from the facts reported, immediately go to the scene of said accident, and make such suggestions, and render such assistance as he may deem necessary for the safety of the men. And the inspector shall investigate and ascertain the cause of such explosion or accident, and make a report thereof, which he shall preserve with

the other records of his office; and to enable him to make such investigations he shall have power to compel the attendance of witnesses, and administer oaths or affirmations to them, and the cost of such investigations shall be paid by the county in which such accident has occurred, in the same manner as costs of coroners' inquests are now paid. And the failure of the person in charge of the coal mine in which any such accident may have occurred, to give notice to the inspector or coroner, as provided for in this section, shall subject such person to a fine of not less than twenty-five dollars nor more than one hundred dollars, to be recovered in the name of the People of the State of Illinois, before any justice of the peace of such county, and such fine, when collected, shall be paid into the county treasury for the use of the county in which any such accident may have occurred.

SEC. 10. In all cases in which punishment is provided by fine under this act for a breach of any of its provisions the fine for a first offense shall not be less than fifty dollars and not more than two hundred dollars, and for the second offense not less than one hundred dollars or more than five hundred dollars, in the discretion of the court, except as specially provided for in section nine of this act.

SEC. 11. The county board in each and every county in this State in which mining is now or may be hereafter carried on is hereby authorized, and it is made its duty, to appoint an inspector of mines at its September meeting, who shall have been a resident of the county for which he is appointed for one year, previous to his appointment. He shall be required to enter into a bond to the county board of said county for a sum not less than one thousand dollars nor more than three thousands dollars, conditioned upon the faithful performance of his duties; said bond to be accompanied by good and sufficient security, to be approved by the said county board. He shall also take an oath of office as provided for by the constitution, and he shall be required to furnish satisfactory evidence that he has had sufficient practical experience in and around mines to discharge the duties of said office, and to see that the provisions of this act are faithfully complied with. He shall not be interested as owner, stockholder, superintendent or operator, or be interested in operating any mine during his term of office, which shall be one year, but he may be re-appointed as often as the county board may think proper. The county board of such counties shall fix the number of days to be employed by the county inspector in inspecting the different mines in his county, and enter the same upon the records of said board. He shall receive such compensation for his time actually employed in the performance of the duties of his office, to be verified by his affidavit, to be not less than three dollars, nor more than five dollars per day, to be paid out of the county treasury. The county board shall also provide an anemometer [anemometer] and all necessary instruments for testing the air, and in all cases where the inspector finds the provisions of this act, or any of them, not complied with in operating any mine, it is made his duty to demand and, if necessary, compel by law the collection from the owner or operators of such mine all expenses of said inspection as provided in section two (2) of this act: Provided,—however, that in all cases where the county commissioners fail or refuse to appoint a competent and experienced inspector, or where the said inspector fails to attend to or perform, the duties of his office in accordance with the meaning and intent of this act, the Circuit Judge of said county shall, at the request of any ten citizens of said county and upon proper proof of the incompetency or neglect of said inspector to properly perform the duties of his office, remove the said inspector and appoint a properly qualified person to perform the duties of said inspector for the unexpired term. (Amended. See pages 148, 153.)

SEC. 12. The inspector, provided for under this act shall see that every necessary precaution is taken to insure the health and safety of the workmen therein employed; that the provisions and requirements of this act be faithfully observed and obeyed, and the penalties of the law enforced against all who willfully disobey its requirements. He shall also collect and tabulate the following facts, that is to say: The number of acres of workable coal lands in his county; the number and thickness of the coal beds, and their respective depths below the surface; how they are mined, whether by shaft, slope, or drift; the number of mines in operation, the number of men employed therein, and the aggregate yearly production in tons; together with an estimate of the amount of capital employed in coal mining in this county, and any other information relative to coal mining that he may deem necessary; all of which facts so tabulated, together with a statement of the condition of the mine, as to safety and ventilation, and the general result of his examination into the causes of all accidents in and about the coal mines of his county; he shall fully set forth, in an annual report to the Governor, with his recommendations as to such other legislation on this subject as may be proper; he shall also furnish such information as he may have obtained on this subject, when called for by the State geologist. (Amended. See pages 149, 154.)

SEC. 13. It shall be lawful for the inspector, provided for in this act, to enter, examine and inspect any and all coal mines and machinery belonging thereto, at all reasonable times, by day or by night, but so as not to obstruct or hinder the necessary workings of such coal mine, and the owner, agent or operator of every such coal mine is hereby required to furnish all necessary facilities for entering such examination and inspection, and if the said owner, agent or operator aforesaid shall refuse to permit such inspection or to furnish the necessary facilities for such entry, examination and inspection, the inspector shall file his affidavit setting forth such refusal, with the judge of the circuit court in said county in which said mine is situated, either in term time or vacation, or, in the absence of said judge, with the master in chancery in said county in which said mine is situated, and obtain an order on such owner, agent or operator so refusing as aforesaid, commanding him to permit and furnish such necessary facilities for the inspection of such coal mine, or to be adjudged to stand in contempt of court and punished accordingly, and if the said inspector shall, after examination of any coal mine and the works and machinery pertaining thereto, find the same to be worked contrary to the provisions of this act, or unsafe for the workmen therein employed, said inspector shall, through the States attorney of his county, or any attorney, in case of his refusal to act, acting in the name and on behalf of the State, proceed against the owner, agent or operator of such coal mine by injunction without bond, after giving at least two days' notice to such owner, agent or operator; and said owner, agent or operator shall have the right to appear before the judge or master to whom the application is made, who shall hear the same on affidavits and such other testimony as may be offered in support as well as in opposition thereto, and if sufficient cause appear, the court, or judge in vacation, by order shall prohibit the further working of any such coal mine in which persons may be unsafely employed contrary to the provisions of this act, until the same shall have been made safe and the requirements of this act shall have been complied with, and the court shall award such costs in the matter of the said injunction as may be just; but any such proceedings so commenced shall be without prejudice to any other remedy permitted by law for enforcing the provisions of this act.

SEC. 14. For any injury to person or property, occasioned by any wilful violations of this act or willful failure to comply with any of its provisions, a right of action shall accrue to the party injured for any direct damages sustained thereby; and in case of loss of life by reason of such wilful violation or wilful failure as aforesaid, a right of action shall accrue to the widow of the person so killed, his lineal heirs or adopted children, or to any other person or persons who were before such loss of life, dependent for support on the person or persons so killed, for a like recovery of damages for the injuries sustained by reason of such loss of life or lives.

SEC. 15. Any miner, workman or other person who shall knowingly injure any water-gauge, barometer, air-course, or brattice, or shall obstruct, throw open any airways, or carry any lighted lamps or matches into places that are worked by the light of safety lamps, or shall handle or disturb any part of the machinery of the hoisting engine, or open a door in the mine and not have the same closed again, whereby danger is produced either to the mine or those at work therein; or who shall enter into any part of the mine against caution; or who shall disobey any order given in pursuance of this act; or who shall do any wilful act whereby the lives and health of persons working in the mine, or the security of the mine or mines, or the machinery thereof, is endangered, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by fine or imprisonment at the discretion of the court.

SEC. 16. The owner, agent or operator of any coal mine shall keep a sufficient supply of timber, where required to be used as props, so that the workmen may at all times be able to properly secure the said workings from caving in; and it shall be the duty of the owner, agent or operator to send down all such props when required.

SEC. 17. All acts or parts of acts inconsistent with the provisions of this act are and the same are hereby repealed.

FIRST AMENDATORY ACT, 1883.

LAWS 1883, P. 116.

JUNE 18, 1883.

AN ACT to amend sections 1, 3, 6, 9, 11, and 12 of an act entitled "An act providing for the health and safety of persons employed in coal mines," approved May 28, 1879, in force July 1, 1879, and making the necessary appropriations for carrying out the provisions of the same.

SECTION 1. Be it enacted, etc.: That sections 1, 3, 6, 9, 11 and 12 of an act entitled "An act providing for the health and safety of persons employed in coal mines," approved May 28, 1879, in force July 1, 1879, be amended so as to read as follows:

SEC. 1. That the owner, or agent, or operator of each and every coal mine in this State, shall make, or cause to be made, at the discretion of the inspector, or person acting in that capacity, an accurate map or plan of the workings of such coal mine, and of each and every vein thereof, showing the general inclination of the strata, together with any material deflections in said workings, and the boundary lines of said coal mines, and deposit a true copy of said map or plan with the inspector of coal mines, to be filed in his office, and another true copy of said map or plan with the recorder of the county in which said coal mine is situated, to be filed in his office, both of which said copies shall be deposited as aforesaid within three (3) months from the day when this act shall go into effect; and the original, or a copy of such map or plan, shall also be kept for inspection at the office of such coal mine; and during the month of January, of each and every year after this act shall go into effect, the said owner, agent or operator shall furnish the inspector and recorder, as aforesaid,

with a statement and further map or plan of the progress of the workings of such coal mine, continued from the last report to the end of the December month just preceding; and the inspector shall correct his map or plan of said workings in accordance with the statement and map or plan thus furnished; and when any coal mine is worked out or abandoned, that fact shall be reported to the inspector, and the map or plan of such coal mine in the office of said inspector shall be carefully corrected and verified. The several coal mine inspectors in this State shall furnish copies of all maps or plans of mines to be filed with the Bureau of Labor Statistics.

SEC. 3. In all coal mines that are or have been in operation prior to the first day of July, in the year of our Lord 1879, and which are worked by or through a shaft, slope or drift, if there is not already an escapement shaft to each and every said coal mine, or communication between each and every coal mine, and some other contiguous mine, then there shall be an escapement shaft or other communication, such as shall be approved by the mine inspector, making at least two distinct means of ingress and egress for all persons employed or permitted to work in such coal mines. Such escapement shaft or other communication with a contiguous mine as aforesaid, shall be constructed in connection with every vein or stratum of coal worked in such coal mine, which shall be at least three and one-half feet high and at least five feet wide, and in no instance shall the height of said roadway be less than the thickness of the vein or stratum of coal through which it is driven; and the time to be allowed for such construction shall be one year when such mine is under one hundred (100) feet in depth; two years when such mine is over one hundred (100) feet in depth and under three hundred (300) feet, and three years when it is over three hundred (300) feet and under four hundred (400) feet, and four years when it is over four hundred (400) feet in depth, and five years for all mines over five hundred (500) feet, from the first day of July, A. D. 1879; and in all cases where the working force (face) of one mine has been driven up to or into the workings of another mine, the respective owners of such mine, while operating the same, shall keep open a roadway at least five feet high and five feet wide, thereby forming a communication as contemplated in this act; and for a failure to do so shall be subject to the penalty provided for in section 10 of this act, for each and every day such roadway is unnecessarily closed; each and every such escapement shaft shall be separated from the main shaft by such extent of natural strata as shall secure safety to the men employed in such mines, such distance to be left to the discretion of the mine inspector or person acting in that capacity, and in all coal mines that shall go into operation for the first time after the first day of January A. D. 1880. And in all cases where such mine or mines shall hereafter be put in operation in this State, the owner thereof or the lessee or occupant of the same shall construct such an escapement shaft as is now required by law in this State, at the rate of two hundred feet per annum, until such escapement shaft shall have been completed: And provided, further, that nothing in this section shall be construed to extend the time heretofore allowed by law for constructing escapement shafts in mines going into operation for the first time before said first day of January, A. D. 1880.

SEC. 6. The owner, agent or operator of every coal mine operated by shaft shall provide suitable means of signaling between the bottom and top thereof, and shall also provide safe means of hoisting and lowering persons in a cage covered with boiler iron, so as to keep safe, as far as possible, persons descending into and ascending out of such shaft; and such cage shall be furnished with guides to conduct it on slides through such shaft, with a sufficient brake on every drum to prevent accident in case of the giving out or breaking of the

machinery; and such cage shall be furnished with spring catches intended and provided, as far as possible, to prevent the consequences of cable-breaking or the loosening or disconnecting of the machinery; and no props or rails shall be lowered in a cage while men are descending into or ascending out of said mine: Provided, that the provisions of this section in relating to covering cages with boiler iron, shall not apply to coal mines less than one hundred (100) feet in depth where the coal is raised by horse-power. No person under the age of fourteen years, or females of any age, shall be permitted to enter any mine to work therein. Any party or person neglecting or refusing to perform the duties required to be performed by sections 3, 4, 5, 6, 7, and 8, shall be deemed guilty of a misdemeanor, and punished by fine in the discretion of the court trying the same, subject, however, to the limitations as provided by section 10 of this act.

SEC. 9. Whenever loss of life, or serious personal injury, shall occur by reason of any explosion, or of any accident whatsoever, in or about any coal mine, it shall be the duty of the person having charge of such coal mine, to report the facts thereof, without delay, to the mine inspector of the district in which said coal mine is situated; and if any person is killed thereby, to notify the coroner of the county also, or, in his absence or inability to act, any justice of the peace of said county; and the said inspector shall, if he deem it necessary from the facts reported, immediately go to the scene of said accident, and make such suggestions and render such assistance as he may deem necessary for the safety of the men. And the inspector shall investigate and ascertain the cause of such explosion or accident, and make a report thereof, which he shall preserve with the other records of his office; and to enable him to make such investigations he shall have the power to compel the attendance of witnesses, and administer oaths or affirmations to them, and the cost of such investigations shall be paid by the county in which such accident has occurred, in the same manner as costs of coroners' inquests are now paid. And the failure of the person in charge of the coal mine in which any such accident may have occurred, to give notice to the inspector or coroner, as provided for in this section, shall subject such person to a fine of not less than twenty-five (\$25) dollars, nor more than one hundred dollars (\$100), to be recovered in the name of the People of the State of Illinois, before any justice of the peace of such county, and such fine, when collected, shall be paid into the county treasury for the use of the county in which any such accident may have occurred.

SEC. 11. This State shall be divided into five inspection districts, as follows, viz: The first district shall be composed of the counties of Boone, McHenry, Lake, DeKalb, Kane, DuPage, Cook, LaSalle, Kendall, Grundy, Will, Livingston, Kankakee and Iroquois. Second district, the counties of Jo Daviess, Stephenson, Winnebago, Carroll, Ogle, Whiteside, Lee, Rock Island, Henry, Bureau, Mercer, Stark, Putnam, Marshall, Henderson, Warren, Knox, Hancock, McDonough, Schuyler, Adams and Brown. The third district, the counties of Fulton, Peoria, Woodford, Tazewell, McLean, Ford, Mason, Cass, Menard, Logan, DeWitt, Piatt, Champaign and Vermilion. The fourth district, the counties of Pike, Scott, Morgan, Sangamon, Calhoun, Greene, Jersey, Madison, Bond, Macoupin, Montgomery, Christian, Fayette, Macon, Moultrie, Shelby, Effingham, Douglas, Coles, Cumberland, Jasper, Edgar, Clark, Crawford, Clay, Richland and Lawrence. The fifth district, the counties of St. Clair, Clinton, Washington, Marion, Jefferson, Wayne, Edwards, Wabash, Hamilton, White, Monroe, Randolph, Perry, Jackson, Franklin, Williamson, Saline, Gallatin, Union, Johnson, Pope, Hardin, Alexander, Pulaski, and Massac. The Governor shall, upon the recommendation of a board of examiners selected for that purpose, composed of two practical coal miners, two coal operators, and one mining

engineer, to be appointed by the Bureau of Labor Statistics of this State, all of whom shall be sworn to a faithful discharge of their duties, appoint five properly qualified persons to fill the offices of inspectors of coal mines of this State (being one inspector for each district provided for in this act), whose commissions shall be for the term of one year, but they shall at all times be subject to removal from office for neglect of duty, or misfeasance in the discharge of duty, as hereinafter provided for; and the inspectors so appointed shall have attained the age of thirty years, be citizens of this State, and have a knowledge of mining engineering sufficient to conduct the development of coal mines, and a practical knowledge of the methods of conducting mining for coal in the presence of explosive gases, and of the proper ventilation of coal mines. They shall have had a practical mining experience of ten years, and shall not be interested as owner, operator, stockholder, superintendent or mining engineer of any coal mine during their term of office, and shall be of good moral character and temperate habits, and shall not be guilty of any act tending to the injury of miners or operators of mines during their term of office. They shall be provided by the State with the most approved modern instruments for carrying out the intentions of this act. The inspectors, before assuming the duties of their several offices, shall take an oath of office as provided for by the constitution, and shall be required to enter into a bond to the State in the sum of five thousand dollars (\$5,000), with sureties to be approved by the Governor, conditioned upon the faithful performance of their duties in every particular, as required by this act; said bond, with the approval of the Governor endorsed thereon, together with the oath of office, shall be deposited with the Secretary of State. The salaries of the inspectors provided for by this act shall be eighteen hundred dollars (\$1,800) per annum, each, and the Auditor of Public Accounts is hereby authorized to draw his warrant on the treasury in their favor, quarterly, for the amount specified in this section for the salary of each inspector: Provided, that the county board of any county may appoint an assistant inspector for such county, who shall act under the direction of the district inspector in the performance of his duties, and shall receive not less than three dollars (\$3) nor more than five dollars (\$5) per day, for the time actually employed, to be paid out of the county treasury; and he may be removed by such county board at any time.

SEC. 12. The inspectors provided for by this act shall devote their whole time and attention to the duties of their office, and make personal examination of every mine within their respective districts, and shall see that every necessary precaution is taken to insure the health and safety of the workmen employed in such mines, and that the provisions and requirements of the mining laws of this State are faithfully observed and obeyed, and the penalties of same enforced. They shall also make annual reports to the Bureau of Labor Statistics of their acts during the year in the discharge of their duties, with the recommendations as to the legislation necessary on the subject of mining, and shall collect and tabulate upon blanks furnished by said Bureau all desired statistics of the mines and miners within their districts, to accompany said annual report; they shall also furnish such information as they may have obtained on this subject, when called for, to the State Geologist. Upon a petition signed by not less than three reputable coal operators, or ten coal miners, setting forth that any inspector of coal mines neglects his duties, or that he is incompetent, or that he is guilty of malfeasance in office, or guilty of any act tending to the injury of miners or operators of mines, it may be lawful for the Bureau of Labor Statistics of this State to issue a citation to the said inspector to appear at no less than fifteen days' notice, on a day fixed, before them, when the said Bureau shall proceed to inquire into and investigate the allegations of

the petitioners; and if the said Bureau find that the said Inspector is neglectful of his duty, or that he is by reason of causes that existed before his appointment, or that have arisen since his appointment, incompetent to perform the duties of said office, or that he is guilty of malfeasance in office, or guilty of any act tending to the injury of miners or operators of mines, the said Bureau shall declare the office of inspector of the said district vacant, and a properly qualified person shall be appointed to fill the office in compliance with the provisions of this act; and the cost of said investigation by the said Bureau shall be borne by the removed inspector; but if the allegations of the petitions are not sustained by the final decision of said Bureau, the costs shall be paid by the petitioners. The board of examiners provided for in section eleven of this act, shall be appointed at the annual meeting of the Bureau of Labor Statistics, and shall hold their offices one year. They shall meet annually at the State capital on the first Monday in September, in each year, and special meetings may be called at any time by the Bureau of Labor Statistics when the office of coal mine inspector becomes from any cause vacant. They shall receive as compensation the sum of three dollars (\$3) per day, each, for time actually employed in the duties of their office, and actual traveling expenses, to be verified by affidavit: Provided, that in no case shall the per diem received by any member of said board exceed the sum of thirty dollars (\$30) per annum. The Auditor of Public Accounts is hereby authorized to draw his warrant in favor of each member of the board of examiners at the close of their annual session for the full amount due them for attending annual and special sessions, and expenses, upon vouchers sworn to by them and approved by the Secretary of the Bureau of Labor Statistics, and the Governor.

SECOND AMENDATORY ACT, 1883.

LAWS 1883, P. 114.

JUNE 21, 1883.

AN ACT to amend section 4 of "An act providing for the health and safety of persons employed in coal mines," and to further amend said act by adding thereto sections to be numbered 18 and 19, approved May 28, 1879, in force July 1, 1879.

SECTION 1. Be it enacted, etc.: That section 4 of an act entitled "An act providing for the health and safety of persons employed in coal mines," be and is hereby amended to read as follows, and that said act be and is hereby amended by adding thereto the following sections, numbered 18 and 19:

SEC. 4. The owner, agent or operator of every coal mine, whether operated by shaft, slope or drift, shall provide and maintain for every such mine a sufficient amount of ventilation, to be determined by the inspector, at the rate of one hundred cubic feet of air per man per minute, measured at the foot of the down cast, which shall be forced and circulated to the face of every working place throughout the mine, so that said mine shall be free from standing gas of whatsoever kind; and in all mines where fire-damp is generated, every working place where such fire-damp is known to exist shall be examined every morning with a safety lamp, by a competent person, before any other persons are allowed to enter. The ventilation required by this section may be produced by any suitable appliances, but in case a furnace shall be used for ventilating purposes, it shall be built in such a manner as to prevent the communication of fire to any part of the works, by lining the up-cast with incombustible material for a sufficient distance up from said furnace: Provided, it shall not be lawful to use a furnace for ventilating purposes, or for any other purpose, that shall emit smoke into any compartment constructed in or adjoining any coal holsting shaft or slope, where the holsting shaft or slope is the only means provided for the ingress or egress of persons employed in said coal mines. That it shall

be unlawful where there is but one means of ingress and egress provided at a coal shaft or slope, to construct and use a ventilating furnace that shall emit smoke into a shaft as an up-cast, where the shaft or slope used as a means of ingress and egress by persons employed in said coal mines is the only means provided for furnishing air to persons employed therein.

SEC. 18. That all mines hoisting coal by steam power from shaft or slope, having no other means of ingress or egress than that afforded to persons employed therein than by said shaft or slope, shall, within ninety days after July the first, A. D. 1883, have all engine and boiler houses roofed and sided with fire-proof materials, and they shall be situated not less than fifty feet from the mouth of the said shaft or slope; that the hoisting derricks erected over said hoisting shaft or near said slope, if inclosed, and all the coal chutes, buildings and construction within a radius of fifty feet of the mouth of the said hoisting shaft or slope, shall be covered and sided with fire-proof materials, and the person in charge, the owners or operators thereof, shall provide a steam pump and have the same conveniently situated, and a sufficient supply of water and hose, always ready for use in any part of the buildings, chutes or constructions within a radius of fifty feet of said coal-hoisting shaft or slope; and if the person in charge of any such coal shaft or slope shall refuse or neglect to comply with the provisions of this act, then the inspector of coal mines for the county in which the said shafts or slope are situated shall proceed, through the State's attorney of his county, or any attorney, in case of his refusal to act, acting in the name and on behalf of the State, against the owner, agent or operator of said shaft or slope, by information without bond, after giving at least two days' notice to such owner, agent or operator; and the said owner, agent or operator shall have the right to appear before the judge or master to whom the application is made, who shall hear the same on affidavits, and such other testimony as may be offered, in support as well as in opposition thereto; and if it be found that the owner, agent or operator of said shaft or slope has refused or neglected to comply with the provisions of this act, the court, or judge in vacation, by order, shall prohibit the further working of any such coal shaft or slope until the owner, agent or operator shall have complied with the terms of this act.

SEC. 19. That all miners and employes engaged in mining coal shall use copper needles, in preparing blasts in coal, and not less than five (5) inches of copper on the end of all iron bars used for tamping blasts of powder in coal, and the use of iron needles, and iron tamping bars, not tipped with five inches of copper, is hereby declared to be unlawful. Any failure on the part of a coal miner, or an employe in any coal mine, to conform to the terms and requirements of this act shall subject such miner or employe to a fine of not less than five dollars, nor more than twenty-five dollars with costs of prosecution, for each offense, to be recovered by civil suit, before any justice of the peace, said fines, when collected, to be paid into the treasury of the county where the offense was committed, to the credit of the fund provided for the payment of the county inspector of mines.

THIRD AMENDATORY ACT, 1885.

LAWS 1885, P. 217.

JUNE 30, 1885.

AN ACT to amend sections 3, 4, 11, and 12 of an act entitled "An act providing for the health and safety of persons employed in coal mines," approved May 28, 1879, in force July 1, 1879, as amended by acts approved June 18, 1883, and June 21, 1883, in force July 1, 1883.

SECTION 1. Be it enacted, etc.: That sections 3, 4, 11 and 12 of an act entitled "An act providing for the health and safety of persons employed in coal mines," approved May 28, 1879, in force July 1, 1879, as amended by acts approved June

18, 1883, and June 21, 1883, in force July 1, 1883, be amended so as to read as follows:

NOTE.—The original sections have been previously amended. See page 146.

SEC. 3. In all coal mines that are or have been in operation prior to the first day of July, in the year of our Lord 1879, and which are worked by or through a shaft, slope or drift, if there is not already an escapement shaft to each and every said coal mine, or communication between each and every coal mine, and some other contiguous mine, then there shall be an escapement shaft or other communication, such as shall be approved by the mine inspector, making at least two distinct means of ingress and egress for all persons employed or permitted to work in such coal mine. Such escapement shaft or other communication with a contiguous mine as aforesaid, shall be constructed in connection with every vein or stratum of coal worked in such coal mine, which shall be at least three and one-half feet high and at least five feet wide, and in no instance shall the height of said roadway be less than the thickness of the vein or stratum of coal through which it is driven; and the time to be allowed for such construction shall be one year when such mine is under one hundred (100) feet in depth; two years when such mine is over one hundred (100) feet in depth and under three hundred (300) feet, and three years when it is over three hundred (300) feet and under four hundred (400) feet, and four years when it is over four hundred (400) feet in depth, and five years for all mines over five hundred (500) feet, from the first day of July, A. D. 1879; and in all cases where the working force of one mine has been driven up to or into the workings of another mine, the respective owners of such mines, while operating the same, shall keep open a roadway, at least five feet high and five feet wide, thereby forming a communication, as contemplated in this act; and for a failure to do so shall be subject to the penalty provided for in section 10 of this act, for each and every day such roadway is unnecessarily closed; each and every such escapement shaft shall be separated from the main shaft by such extent of natural strata as shall secure safety to the men employed in such mines, such distance to be left to the discretion of the mine inspector or person acting in that capacity, and shall be equipped with stairways or ladders having landing places or platforms at least every twenty feet from the bottom to the top, or in lieu thereof such holisting apparatus as will enable the employes in the mine to make safe and speedy exit in case of danger. In all coal mines that shall go into operation for the first time after the first day of January, A. D. 1880, and in all cases where such mine or mines shall hereafter be put in operation in this State, the owner thereof, or the lessee or occupant of the same, shall construct such an escapement shaft as is now required by law in this State, at the rate of two hundred feet per annum until such escapement shaft shall have been fully completed: And, provided, further, that nothing in this section shall be construed to extend the time heretofore allowed by law for constructing escapement shafts in mines going into operation for the first time before said first day of January, A. D. 1880.

SEC. 4. The owner, agent or operator of every coal mine, whether operated by shaft, slope or drift, shall provide and maintain in every such mine a good and sufficient amount of ventilation for such men and animals as may be employed therein, the amount of air in circulation to be in no case less than one hundred cubic feet for each man and six hundred cubic feet for each animal per minute, measured at the foot of the down-cast, and the same to be increased at the discretion of the inspector, according to the character and extent of the workings, or the amount of powder used in blasting; and said volume of air shall be forced and circulated to the face of every working place throughout the mine, so that said mine shall be free from standing powder smoke, and gases of

every kind. In all mines where fire-damp is generated, every working place, where the same is known or thought to exist, shall be examined every morning with a safety lamp, by a competent person, before any other persons are allowed to enter, and wherever the inspector shall find men working without sufficient air, or under any unsafe condition, he may remove the same to other parts of the mine or from the mine altogether. The ventilation required by this section may be produced by any suitable appliances, but in case a furnace shall be used for ventilating purposes it shall be built in such a manner as to prevent the communication of fire to any part of the works, by lining the up cast with incombustible material for a sufficient distance up from said furnace: Provided, it shall not be lawful to use a furnace for ventilating purposes, or for any other purpose, that shall emit smoke into any compartment constructed in, or adjoining any coal-hoisting shaft or slope, where the hoisting shaft or slope is the only means provided for the ingress or egress of persons employed in said coal mines. That it shall be unlawful, where there is but one means of ingress and egress provided at a coal shaft or slope, to construct and use a ventilating furnace that shall emit smoke into a shaft, as an up-cast, where the shaft or slope used as a means of ingress and egress by persons employed in said coal mines is the only means provided for furnishing air to persons employed therein."

SEC. 11. This State shall be divided into five inspection districts, as follows, viz: The first district shall be composed of the counties of Boone, McHenry, Lake, DeKalb, Kane, DuPage, Cook, LaSalle, Kendall, Grundy, Will, Livingston, Kankakee and Iroquois. Second district, the counties of Jo Daviess, Stephenson, Winnebago, Carroll, Ogle, Whiteside, Lee, Rock Island, Henry, Bureau, Mercer, Stark, Putnam, Marshall, Henderson, Warren, Knox, Hancock, McDonough, Schuyler, Adams and Brown. The third district, the counties of Fulton, Peoria, Woodford, Tazewell, McLean, Ford, Mason, Cass, Menard, Logan, DeWitt, Piatt, Champaign and Vermilion. The fourth district, the counties of Pike, Scott, Morgan, Sangamon, Calhoun, Greene, Jersey, Madison, Bond, Macoupin, Montgomery, Christian, Fayette, Macon, Moultrie, Shelby, Effingham, Douglas, Coles, Cumberland, Jasper, Edgar, Clark, Crawford, Clay, Richland and Lawrence. The fifth district, the counties of St. Clair, Clinton, Washington, Marion, Jefferson, Wayne, Edwards, Wabash, Hamilton, White, Monroe, Randolph, Perry, Jackson, Franklin, Williamson, Saline, Gallatin, Union, Johnson, Pope, Hardin, Alexander, Pulaski, and Massac. The Governor shall, upon the recommendation of a board of examiners, selected for that purpose, composed of two practical coal miners, two coal operators, and one mining engineer, to be appointed by the Bureau of Labor Statistics of this State, all of whom shall be sworn to a faithful discharge of their duties, appoint five properly qualified persons to fill the offices of inspectors of coal mines of this State (being one inspector for each district provided for in this act), whose commissions shall be for the term of two years, but they shall at all times be subject to removal from office for neglect of duty, or malfeasance in the discharge of duty, as hereinafter provided for; and the inspectors so appointed, shall have attained the age of thirty years, be citizens of this State, and have a knowledge of mining engineering sufficient to conduct the development of coal mines, and a practical knowledge of the methods of conducting mining for coal in the presence of explosive gases, and of the proper ventilation of coal mines. They shall have had a practical mining experience of ten years, and shall not be interested as owner, operator, stockholder, superintendent or mining engineer of any coal mine during their term of office, and shall be of good moral character and temperate habits, and shall not be guilty of any act tending to the injury of miners or operators of mines during their term of office. They shall be pro-

vided by the State with the most approved modern instruments for carrying out the intention of this act. The inspectors, before assuming the duties of their several offices, shall take an oath of office, as provided for by the constitution, and shall be required to enter into a bond to the State in the sum of five thousand dollars (\$5,000), with sureties to be approved by the Governor, conditioned upon the faithful performance of their duties in every particular, as required by this act; said bond, with the approval of the Governor endorsed thereon, together with the oath of office, shall be deposited with the Secretary of State. The salaries of the inspectors, provided for by this act, shall be eighteen hundred dollars (\$1,800) per annum, each, and the Auditor of Public Accounts is hereby authorized to draw his warrant on the treasury in their favor, quarterly, for the amount specified in this section for the salary of each inspector; Provided, that the county board of any county may appoint an assistant inspector for such county, who shall act under the direction of the district inspector in the performance of his duties, and shall receive not less than three dollars (\$3), nor more than five dollars (\$5) per day for the time actually employed, to be paid out of the county treasury; and he may be removed by such county board at any time.

SEC. 12. The inspectors provided for by this act shall devote their whole time and attention to the duties of their office, and make personal examination of every mine within their respective districts, and shall see that every necessary precaution is taken to insure the health and safety of the workmen employed in such mines, and that the provisions and requirements of the mining laws of this State are faithfully observed and obeyed and the penalties of the same enforced. They shall also make annual reports to the Bureau of Labor Statistics of their acts during the year in the discharge of their duties, with their recommendation as to legislation necessary on the subject of mining, and shall collect and tabulate upon blanks furnished by said Bureau all desired statistics of the mines and miners within their districts, to accompany said annual report; they shall also furnish such information as they may have obtained on this subject, when called for, to the State Geologist. Upon a petition signed by not less than three reputable coal operators, or ten coal miners, setting forth that any inspector of coal mines neglects his duties, or that he is incompetent or that he is guilty of malfeasance in office, or guilty of any act tending to the injury of miners or operators of mines, it may be lawful for the Bureau of Labor Statistics of this State to issue a citation to the said inspector to appear, at not less than fifteen days' notice, on a day fixed, before them, when the said Bureau shall proceed to inquire into and investigate the allegations of the petitioners; and if the said Bureau find that the said inspector is neglectful of his duty, or that he is, by reason of causes that existed before his appointment, or that have arisen since his appointment, incompetent to perform the duties of said office, or that he is guilty of malfeasance in office, or guilty of any act tending to the injury of miners or operators of mines, the said Bureau shall declare the office of inspector of the said district vacant, and a properly qualified person shall be appointed to fill the office in compliance with the provisions of this act; and the cost of said investigation by the said Bureau shall be borne by the removed inspector; but if the allegations of the petitioners are not sustained by the final decision of the said Bureau, the costs shall be paid by the petitioners. The board of examiners provided for in section 11 of this act shall be appointed by the Bureau of Labor Statistics, and shall hold their offices for two years. They shall meet annually at the State capital on the second Monday in September, and special meetings may be called at any time by the Bureau of Labor Statistics when the office of coal mine inspector becomes, from any cause, vacant. They shall receive as

compensation the sum of three dollars (\$3) per day, each, for time actually employed in the duties of their office, and actual traveling expenses to be verified by affidavit: Provided, that in no case shall the per diem received by any member of said board exceed the sum of thirty dollars (\$30) per annum. The Auditor of Public Accounts is hereby authorized to draw his warrant in favor of each member of the board of examiners, at the close of their annual session, for the full amount due them for attending annual and special sessions and expenses, upon vouchers sworn to by them and approved by the secretary of the Bureau of Labor Statistics and the Governor: And, provided, further, that when two or more coal mines are so located as to allow the said mines to be connected by permanent entries between, and the land or mining rights lying between such mines is owned by any person or persons with whom the owner or owners of said mine or mines are unable to agree for the purchase of the right of way for the connecting entry or entries between such mines, and the right to maintain and use such entry as a connecting entry, such owner or owners of any such coal mine or mines, or either of them, may acquire such right or title in the manner that may be now or hereafter provided for by any law of eminent domain.

FOURTH AMENDATORY ACT, 1887.

LAWS 1887, P. 231.

JUNE 16, 1887.

AN ACT to amend section 3 as amended June 18, 1883, in force July 1, 1883, and amended June 30, 1885, in force July 1, 1885, section 4 as amended June 21, 1883, in force July 1, 1883, and amended June 30, 1885, in force July 1, 1885, section 6 as amended June 18, 1883, in force July 1, 1883, section 7, section 8, section 14 and section 16 of an act entitled "An act to provide for the health and safety of persons employed in coal mines." approved May 28, 1879, in force July 1, 1879, as amended June 18, 1883, and June 21, 1883, in force July 1, 1883, as amended June 30, 1885, in force July 1, 1885.

SECTION 1. Be it enacted, etc.: That sections 3, 4, 6, 7, 8, 14, and 16 of "An act to provide for the health and safety of persons employed in coal mines," approved May 28, 1879, in force July 1, 1879, as amended June 18, 1883, and June 21, 1883, in force July 1, 1883, and as amended June 30, 1885, and in force July 1, 1885, be and are hereby amended to read as follows:

SEC. 3. In all coal mines that are, or have been, in operation prior to the first day of July, 1879, and which are worked by or through a shaft, slope or drift, if there is not already an escapement to each and every said coal mine, or a communication between every such coal mine and some other contiguous mine, then there shall be an escapement shaft or such other communication as shall be approved by the mine inspector, making at least two distinct means of ingress and egress for all persons employed or permitted to work in such coal mine. Such escapement shaft or communication with a contiguous mine, as aforesaid, shall be constructed in connection with every vein or stratum of coal worked in such mine, and all passage ways communicating with the escapement shafts or places of exit from main hauling way to the escapement shaft shall be at least five feet wide and five feet high. In all cases where the working face of one mine has by the agreement of adjacent owners been driven into the workings of another mine, the respective owner of such mine while operating the same shall keep open a roadway at least five feet wide and five feet high, thereby forming a communication as contemplated in this act, and in no case hereafter shall the workings of any mine be driven closer than ten feet to the line of land of any adjacent owner without the written consent of such owner. And in all cases where the shaft of one mine has been used or may be hereafter used as an air or escapement shaft for another mine, neither owner or operator shall close or

obstruct his shaft or workings so as to prevent the use of the same as an escapement or air shaft without first giving one year's notice in writing to the other operator or owner of his intention to abandon his mine. But the operator continuing the working of his mine shall be at the expense of keeping such abandoned workings in repair; each and every such escapement shaft shall be separated from the main shaft by such extent of natural strata as shall secure safety to the men employed in such mines; and before any escapement shaft shall be located, or the excavations for it begun, the district inspector of mines shall be duly notified to appear and determine what shall be a suitable distance for the same; the distance from main shaft for such escapement shaft shall not be less than 300 feet without the consent of the mine inspector, nor more than 300 feet without the consent of the operator. Such escapement shafts as shall be equipped after the passage of this act shall be supplied with stairways, partitioned off from the main airway, and having substantial handrails and platforms, and such stairways shall be built at an angle not greater than forty-five degrees: Provided, that in lieu of stairways such hoisting apparatus may be substituted as will insure the safe and speedy removal of persons employed in such mines in case of danger. No accumulations of ice shall be permitted in any escapement shaft nor any obstructions to travel upon any stairways or ladders. The time to be allowed for sinking such escapement shafts as are now required by law, shall be one year for sinking any shaft two hundred feet or less in depth, and one additional year, or pro rata portion thereof, for every additional two hundred feet or fraction thereof. Time shall be reckoned from the date on which coal is first hoisted from the original shaft for sale or use; and it shall be the duty of the inspectors of mines to see that all escapement shafts are begun in time to secure their completion within the period here specified; And, provided further, that nothing in this section shall be construed to extend the time heretofore allowed by law for constructing escapement shafts.

SEC. 4. The owner, agent or operator of every coal mine whether operated by shaft, slope or drift, shall provide and maintain for every such mine a good and sufficient amount of ventilation for such men and animals as may be employed therein, the amount of air in circulation to be in no case less than one hundred cubic feet for each man and six hundred cubic feet for each animal, per minute, measured at the foot of the downcast, and the same to be increased at the discretion of the inspector according to the character and extent of the workings, or the amount of powder used in blasting; and said volume of air shall be forced and circulated to the face of every working placed through the mine, so that said mine shall be free from standing powder, smoke and gases of every kind. Whenever the inspector shall find men working without sufficient air, or under any unsafe conditions, he shall first give the operator a reasonable notice to rectify same, and upon his refusal so to do may himself order them out until said portions of said mine shall be put in proper condition. All mines in which men are employed shall be examined every morning by a duly authorized agent of the proprietor, to determine whether there are any dangerous accumulations of gas, or lack of proper ventilation, or obstructions to roadways, or any other dangerous conditions, and no person shall be allowed to enter the mine until such examiner shall have reported all the conditions safe for beginning work. Such examiner shall make a daily record of the condition of the mine in a book kept for that purpose, which shall be open at all times to the examination of the inspector. The currents of air in mines shall be split so as to give a separate current to at least every one hundred men at work, and inspectors shall have discretion to order a separate current for a smaller number of men if special conditions render it necessary. The ventilation required by this section may be produced by any suitable appliances,

but in case a furnace shall be used for ventilating purposes, it shall be built in such a manner as to prevent the communication of fire to any part of the works, by lining the upcast with incombustible material for a sufficient distance from said furnace: Provided, it shall not be lawful to use a furnace for ventilating purposes, or for any other purpose, that shall emit smoke into any compartment constructed in, or adjoining any hoisting shaft or slope where the hoisting shaft or slope is the only means provided for the ingress and egress of persons employed in said coal mines. That it shall be unlawful, where there is but one means of ingress and egress provided at a coal shaft or slope, to construct and use a ventilating furnace that shall emit smoke into a shaft, as an upcast, where the shaft or slope used as a means of ingress and egress by persons employed in said coal mines is the only means provided for furnishing air to persons employed therein.

SEC. 6. The owner, agent or operator of every coal mine operated by shaft shall provide safe means of hoisting and lowering persons in a cage covered with boiler iron, so as to keep safe, so far as possible, persons descending into and ascending out of such shaft, and such cage shall be furnished with guides to conduct it on slides through such shaft, with a sufficient brake on every drum to prevent accident in case of the giving out or breaking of the machinery; and such cage shall be furnished with safety catches, intended and provided as far as possible to prevent the consequences of cable-breaking or the loosening or disconnecting of machinery. No person under the age of fourteen years, nor females of any age, shall be permitted to enter any mine to work therein; and before any boy shall be permitted to work in any mine, he shall be required to produce an affidavit from his parent or guardian, sworn and subscribed to before a justice of the peace or notary public, that said boy is fourteen years of age. Such affidavits of all the boys employed in any mine shall be produced upon the demand of the inspector. The owner, agent or operator of every coal mine operated by shaft and by steam power, shall place competent persons at the top and bottom of such shaft for the purpose of attending to the signals while men are being lowered into or hoisted out of the mine; they shall be at their post of duty at least thirty minutes before the hoisting of coal is commenced in the morning, and remain at least thirty minutes after the hoisting of coal has ceased at night. It shall also be their duty to see that the men do not carry any tools, timber or material with them on the cage, and that only the proper number of men are allowed upon the cage at one time. A sufficient light shall be furnished at the top and bottom of the shaft to insure as far as possible the safety of persons getting on or off the cage. The following code of signals between the top man, bottom man and engineer are prescribed for use at all mines operated by shaft and by steam power:

FROM THE BOTTOM TO THE TOP.—

One bell shall signify to hoist coal or empty cage, and also to stop either when in motion.

Two bells shall signify to lower cage.

Three bells shall signify that men are coming up. When return signal is received from the engineer, men will get on the cage and ring one bell to start.

Four bells shall signify to hoist slowly, implying danger.

FROM THE TOP TO THE BOTTOM.—

One bell shall signify all ready, get on the cage.

Two bells shall signify send away empty cage.

Provided, that the manager of any mine may add to this code of signals in his discretion for the purpose of promoting their efficiency, or the safety of

the men, but any code which may be established shall be conspicuously posted at the top and bottom of the shaft and in the engine room. Any person neglecting or refusing to perform the duties required to be performed by sections 3, 4, 5, 6, 7 and 8 of this act shall be deemed guilty of a misdemeanor and punished by fine in the discretion of the court trying the same, subject, however, to the limitations as provided by section 10 of this act.

SEC. 7. No owner, agent or operator of any coal mine operated by shaft or slope shall place in charge of any engine whereby men are lowered into or hoisted from the mine, any other than competent, experienced and sober engineers and firemen, and they shall not be less than eighteen years of age. No person shall ride upon a loaded cage or car used for hoisting purposes in any shaft or slope, and in no case shall more than twelve persons ride on any cage or car at one time, nor shall any coal be hoisted out of any coal mine while persons are descending into such mine. The number of persons permitted to ascend out of or descend into any coal mine at one time shall be determined by the inspector; and they shall not be lowered or hoisted more rapidly than six hundred feet per minute. Whenever a cage load of persons shall come to the bottom to be hoisted out, who have finished their day's work or otherwise been prevented from working, an empty cage shall be given them to ascend, except in mines having slopes or provided with stairways in escapement shafts.

SEC. 8. All boilers used in generating steam in and about coal mines shall be kept in good order, and the agent, owner or operator, as aforesaid, shall have said boilers examined and inspected by a competent boiler maker or other qualified person as often as once every six months, and oftener if the inspector shall deem it necessary, and the result of every such examination shall be certified in writing to the mine inspector; and the top of each and every shaft, and the entrance to each and every intermediate working vein, shall be securely fenced by gates, properly protecting such shaft and entrance thereto; and the entrance to every abandoned slope, air or other shaft shall be securely fenced off; and every steam boiler shall be provided with a proper steam gauge, water gauge and safety valve; and all underground, self-acting or engine planes, or gangways, on which coal cars are drawn and persons travel, shall be provided with some proper means of signaling between the stopping places and the ends of said planes or gangways, and sufficient places of refuge at the sides of such planes or gangways shall be provided at intervals of not more than twenty yards, and they shall be not less than six feet wide and six feet in depth, and shall be white-washed or otherwise distinguished from the surrounding walls. The bottom of every shaft shall be supplied with a traveling-way to enable men to pass from one side of the shaft to the other without passing under or over the cages. All sumps shall be securely planked over so as to prevent accidents to men.

SEC. 14. For any injury to person or property occasioned by any wilful violations of this act or wilful failure to comply with any of its provisions, a right of action shall accrue to the party injured for any direct damages sustained thereby; and in case of loss of life by reason of such wilful violation or wilful failure, as aforesaid, a right of action shall accrue to the widow of the person so killed, his lineal heirs or adopted children, or to any other person or persons who were before such loss of life dependent for support on the person or persons so killed, for a like recovery of damages for the injuries sustained by reason of such loss of life or lives; not to exceed the sum of five thousand dollars.

SEC. 16. The owner, agent or operator of every coal mine shall keep a supply of timber constantly on hand of sufficient length and dimensions to be used as props and cap-pieces, and shall deliver the same as required, with the miners' empty car, so that the workmen may at all times be able to properly secure said workings for their own safety.

FIFTH AMENDATORY ACT, 1889.

LAWS 1889, P. 202.

JUNE 4, 1889.

AN ACT to amend sections 1, 2, 3, 4 and 8 of an act entitled "An act, etc. (same as in section 1).

SECTION 1. Be it enacted, etc.: That sections 1, 2, 3, 4, and 8 of an act entitled "An act to provide for the health and safety of persons employed in coal mines," approved May 28, 1879, in force July 1, 1879, as amended June 18, 1883, and June 21, 1883, in force July 1, 1883, and as amended June 30, 1885, in force July 1, 1885, and as amended June 16, 1887, in force July 1, 1887, be and are hereby amended to read as follows:

SECTION 1. The owner, operator or superintendent of any coal mine shall make or cause to be made an accurate map or plan of such mine, which shall exhibit all the openings and excavations, the shafts, slopes or tunnels, the entries, rooms and breakthroughs; and shall show the direction of the air currents therein, and accurately delineate the surface section lines of the coal lands controlled by the owner of said mine, and show the exact relation to and proximity of the workings of said mine to said surface line. Said map or plan shall also show the exact date of each survey made, and indicate the boundary line of the most advanced face of the workings at each such date; and in case more than one seam of coal is opened or worked, a separate map or plan as aforesaid shall, if desired by the inspector, be made of the workings in each such seam. The said map or plan or a true copy thereof, with a record of all the surveys of said boundary lines and underground workings, shall be delivered by said owner, operator or superintendent to the state inspector of mines, for the district in which said mine is located, to be filed in his office; and the original or a true copy of the same shall be retained for reference and inspection at the office of said coal mine. The maps and plans so delivered to the inspector of mines, as aforesaid, shall be the property of the State, and shall remain in the care and custody of said inspector during his term of office, and be transferred by him to his successor in office. Maps of mines filed with the inspector shall be open to the examination of the public, in the presence of the inspector, but in no case shall any copy of the same be made without the consent of the owner, operator or his agent.

The maps or plans herein provided for shall be made during the month of July next succeeding the passage of this act, and thereafter in July of each and every year the owner, agent or operator of every coal mine shall cause surveys to be made of all alterations and extensions of the workings made during the year preceding, and shall have the record and results of said survey duly entered upon the map of the inspector and upon that kept at the mine. The said extensions shall be placed on the inspector's map, and the map shall be returned to the inspector within thirty days from the completion of the survey.

When any coal mine is worked out and is about to be abandoned, the owner, operator or superintendent shall have the maps or plans thereof extended to include all the excavations made, showing the most advanced workings of every part of the mine, and the relation of such boundaries to given boundaries on the surface.

SEC. 2. Whenever the owner, operator or superintendent of any coal mine shall neglect or refuse, or, from any cause not satisfactory to the mine inspector, fail, for the period of three months, to furnish to the inspector the map or plan of such coal mine, or of the extensions thereto, as provided for in this act, the inspector is hereby authorized to make, or cause to be made, an accurate map or plan of such coal mine, at the expense of the owner thereof, and the cost thereof may be recovered by law, from said owner, operator or

agent, in the same manner as other debts, by suit in the name of the inspector and for his use.

SEC. 3. For all coal mines in this State, when more than six men are employed, whether worked by shaft, slope or drift, there shall be provided and maintained, in addition to the hoisting shaft or opening, a separate escapement shaft or opening to the surface or an underground communication between every such mine and some other contiguous mine, such as shall be approved by the mine inspector as coming within the requirements of this act, and such as shall constitute two distinct and available means of ingress and egress to all persons employed in such coal mines. Such escapement shaft or communication with a contiguous mine, as aforesaid, shall be constructed in connection with every vein or stratum of coal worked in such mine; and all passage ways communicating with the escapement shafts or places of exit from main hauling ways to the escapement shaft shall be at least five feet wide and five feet high. Every escapement shaft shall be separated from the main shaft by such extent of natural strata as shall secure safety to the men employed in such mines; and before any escapement shaft shall be located, or the excavations for it be begun, the district inspector of mines shall be duly notified to appear and determine what shall be a suitable distance for the same; the distance from main shafts for such escapement shaft shall not be less than 300 feet, without the consent of the mine inspector, nor more than 300 feet without the consent of the operator. Such escapement shafts as shall be equipped after the passage of this act, shall be supplied with stairways, partitioned off from the main air way and having substantial handrails and platforms, and such stairways shall be at an angle not greater than forty-five degrees: Provided, that in mines more than one hundred feet in depth there shall be substituted for such stairways a suitable cage, suspended between guide rails and operated by such hoisting apparatus as shall, in the judgment of the inspector of mines, insure the safe and speedy removal of all persons within the mine in case of danger. No accumulation of ice shall be permitted in any escapement shaft, nor any obstructions to travel upon any stairways or ladders. The time which shall be allowed for completing such escapement shaft or making such communication with an adjacent mine, as is required by the terms of this act, shall be for mines already opened or in process of development when this act shall become a law, one year for sinking any shaft two hundred feet or less in depth, and one additional year, or pro rata portion thereof, for every additional two hundred feet or fraction thereof; but for mines which shall be opened after the passage of this act, the time allowed shall be two years for all shafts more than two hundred feet in depth, and one year for all shafts two hundred feet in depth or less; and the time shall be reckoned, in all cases, from the date on which coal is first hoisted from the original shaft for sale or use; and it shall be the duty of the inspectors of mines to see that all escapement shafts are begun in time to secure their completion within the time herein specified. In all cases where the working face of one mine has, by the agreement of adjacent owners, been driven into the workings of another mine, the respective owners of such mine, while operating the same, shall keep open a roadway at least five feet wide and five feet high, thereby forming a communication, as contemplated in this act, and in no case shall the workings of any mine be driven closer than ten feet to the line of land of any adjacent owner, without the written consent of such owner. And in all cases where the shaft of one mine has been used, or may be hereafter used, as an air or escapement shaft for another mine, neither owner or operator shall close or obstruct his shaft or workings so as to prevent the use of the same as an escapement or air shaft, without first giving one year's notice, in writing, to the other operator or owner, of his intention to abandon his mine;

but the operator continuing the work of his mine shall be at the expense of keeping abandoned workings in repair.

SEC. 4. The owner, agent or operator of every coal mine, whether operated by shaft, slope or drift, shall provide and maintain for every such mine a good and sufficient amount of ventilation for such men and animals as may be employed therein, the amount of air in circulation to be in no case less than one hundred cubic feet for each man and six hundred cubic feet for each animal, per minute, measured at the foot of the downcast, and the same to be increased at the discretion of the inspector according to the character and extent of the workings or to the amount of powder used in blasting; and said volume of air shall be forced and circulated to the face of every working place throughout the mine, so that such mine shall be free from standing powder smoke and gases of every kind. All doors set on main entries for the purpose of conducting the ventilation, shall be so constructed and hung as to close of themselves when opened, and shall be made sufficiently tight to effectually obstruct the air currents. In all the larger mines a boy or trapper shall be kept in attendance upon such doors to see that they are kept securely closed, and the air currents properly controlled. Whenever the inspector shall find men working without sufficient air, or under any unsafe conditions, he shall first give the operator a reasonable notice to rectify the same, and upon his refusal so to do may himself order them out until said portions of said mine shall be put in proper condition. All mines in which men are employed shall be examined every morning by a duly authorized agent of the proprietor, to determine whether there are any dangerous accumulations of gas, or lack of proper ventilation or obstructions to roadways, or any other dangerous conditions, and no person shall be allowed to enter the mine until such examiner shall have reported all the conditions safe for beginning work. Such examiner shall make a daily record of the condition of the mine in a book kept for that purpose, which shall be open at all times to the examination of the inspector. The currents of air in mines shall be so split as to give a separate current to at least every one hundred men at work, and inspectors shall have discretion to order a separate current for a smaller number of men if special conditions render it necessary. In case the galleries, roadways or entries of any mine are so dry as to become filled with dust, the operators of such mines shall be required to have such roadways regularly and thoroughly sprinkled; and it shall be the duty of the inspector to see that in all mines every practicable precaution shall be taken against accidents from the careless handling of powder within the mine, and in no case shall more powder be stored in the mine, at any one time, than in the discretion of the inspector is necessary for each day's use. It shall be unlawful for coal miners, in any mine, to charge a blasting hole with loose powder, or otherwise, than with a properly constructed cartridge; and in dry and dusty mines, it shall be unlawful to load cartridges in the mines except with a powder can constructed for the purpose.

It shall be unlawful for the owner, agent or operator of any mine to permit miners to work in said mine with tools prohibited by law.

It shall be unlawful for any operator or agent of a coal mine to employ persons underground whose duties may involve contact with inflammable gases, or the handling of explosives, who have not had experience in such duties, unless all such employes are placed under the immediate charge and instruction of such a number of competent men as to secure the safety of other persons employed in the same mine. The ventilation required by this section may be produced by any suitable appliances, but in case a furnace shall be used for ventilating purposes, it shall be built in such a manner as to prevent the communication of fire to any part of the works, by lining up from said furnace. Pro-

vided, it shall not be lawful to use a furnace for ventilating purposes, or for any other purpose, that shall emit smoke into any compartment constructed in, or adjoining any hoisting shaft or slope, where the hoisting shaft or slope is the only means provided for the ingress or egress of persons employed in said coal mines. It shall be unlawful where there is but one means of ingress and egress provided at a coal shaft or slope, to construct and use a ventilating furnace that shall emit smoke into a shaft, as an upcast, where the shaft or slope used as a means of ingress and egress by persons employed in said coal mines is the only means provided for furnishing air to persons employed therein.

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SEC. 8. All boilers used in generating steam in and about coal mines shall be kept in good order, and the agent, owner or operator as aforesaid shall have said boilers examined and inspected by a competent boilermaker or other qualified person as often as once every six months, and oftener if the inspector shall deem it necessary; and the result of every such examination shall be certified in writing to the mine inspector.

The top of each and every shaft, and the entrance to each and every intermediate working vein shall be securely fenced by gates properly protecting such shaft and the entrance thereto; and the entrance to every abandoned slope, air or other shaft shall be securely fenced off; and every steam boiler shall be provided with a proper steam gauge, water gauge and safety valve.

All underground, self-acting or engine planes with single tracks on which coal cars are drawn and persons travel shall be provided with some proper means of signaling between the stopping places and the ends of said planes, and sufficient places of refuge at the sides of such planes shall be provided at intervals of not more than ten yards, and all other single planes or gangways twenty yards, and they shall not be less than six feet wide and six feet in depth, and shall be whitewashed or otherwise distinguished from the surrounding walls.

The bottom of every shaft shall be supplied with a traveling way to enable men to pass from one side of the shaft to the other without passing under or over the cages. All sumps shall be securely planked over so as to prevent accidents to men.

APPOINTMENT AND DUTIES OF INSPECTORS—SIXTH AMENDATORY ACT, 1895.

LAWS 1895, P. 252.

JUNE 15, 1895.

AN ACT to amend section eleven (11) of an act entitled, "An act providing for the health and safety of persons employed in coal mines," approved May 28, 1879, in force July 1, 1879, as amended by an act approved June 18, 1883, and an act approved June 30, 1885, and to repeal section two (2) of an act entitled, "An act to require inspectors of mines to furnish information to the State Geologist and to provide for paying the expenses of the same," approved June 18, 1891.

SECTION 1. Be it enacted, etc.: That section eleven (11) of an act entitled "An act providing for the health and safety of persons employed in coal mines," approved May 28, 1879, in force July 1, 1879, as amended by an act approved June 18, 1883, and an act approved June 30, 1885, and now in force as so amended, be and the same is hereby amended so as to read as follows:

SEC. 11a. This State shall be divided into seven inspection districts, as follows: The first district shall be composed of the counties of Boone, McHenry, Lake, DeKalb, Kane, DuPage, Cook, LaSalle, Kendall, Grundy, Will, Livingston and Kankakee. The second district, the counties of Jo Daviess, Stephenson, Winnebago, Carroll, Ogle, Whiteside, Lee, Rock Island, Henry, Bureau, Mercer, Stark, Putnam, Marshall, Peoria and Woodford. The third district, the counties

of Henderson, Warren, Knox, Hancock, McDonough, Schuyler, Fulton, Adams and Brown. The fourth district, the counties of Tazewell, McLean, Ford, Iroquois, Vermilion, Champaign, Piatt, DeWitt, Macon, Logan, Menard, Mason and Cass. The fifth district, the counties of Pike, Scott, Morgan, Sangamon, Christian, Shelby, Moultrie, Douglas, Coles, Cumberland, Clark, Edgar, Montgomery, Macoupin, Greene, Jersey and Calhoun. The sixth district, the counties of Monroe, St. Clair, Madison, Bond, Clinton, Fayette, Marion, Effingham, Clay, Jasper, Richland, Crawford and Lawrence. The seventh district, the counties of Washington, Jefferson, Wayne, Edwards, Wabash, White, Hamilton, Franklin, Perry, Randolph, Jackson, Williamson, Saline, Gallatin, Hardin, Pope, Johnson, Massac, Union, Alexander and Pulaski.

b. The Governor shall upon the recommendation of a board of examiners selected for that purpose, composed of two practical coal miners, two coal operators, and one mining engineer, to be appointed by the Bureau of Labor Statistics of this State, all of whom shall be sworn to a faithful discharge of their duties, appoint seven properly qualified persons to fill the offices of inspectors of coal mines of this State (being one inspector for each district provided for in this act), whose commissions shall be for the term of two years, but they shall at all times be subject to removal from office for neglect of duty or malfeasance in the discharge of duty, as hereinafter provided for.

c. The inspectors so appointed shall have attained the age of thirty years, be citizens of this State, and have a knowledge of mining engineering sufficient to conduct the development of coal mines, and a practical knowledge of the methods of conducting mining for coal in the presence of explosive gases, and of the proper ventilation of coal mines. They shall have had a practical mining experience of ten years, and shall not be interested as owner, operator, stockholder, superintendent or mining engineer of any coal mine during their term of office, and shall be of good moral character and temperate habits, and shall not be guilty of any act tending to the injury of miners or operators of mines during their term of office. They shall provide themselves with the most approved modern instruments for carrying out the intention of this act. The inspectors, before assuming the duties of their several offices, shall take an oath of office, as provided for by the Constitution, and shall be required to enter into a bond to the State in the sum of five thousand dollars (\$5,000) with sureties to be approved by the Governor, conditioned upon the faithful performance of their duties in every particular, as required by this act, said bond, with the approval of the Governor endorsed thereon, together with the oath of office shall be deposited with the Secretary of State.

d. Any person, company or corporation operating any coal mine in this State shall be required to pay an inspection fee of not less than six dollars nor more than ten dollars for each visit of inspection or investigation of a coal mine by a State Mine Inspector, such fee to be regulated by the class of the mine, which shall be fixed by the inspector and depend upon the length of time consumed, and the expense necessarily incurred in the inspection of such mine, and such fees shall be paid quarterly by the person, company or corporation operating the mine inspected to the secretary of the Bureau of Labor Statistics and by him covered into the State treasury, to be held as a fund for the payment of salaries of State Mine Inspectors, as herein provided. It shall be the duty of each inspector, as often as he may deem necessary and proper, and at least four times a year, to inspect each and every mine in his inspection district. Each inspection shall be certified to by the pit committee and mine manager of said mine. It shall be the duty of each inspector to keep a detailed record of all inspections and of all fees for such inspections, and he shall file a copy of the same with the secretary of the State Bureau of

Labor Statistics quarterly, between the first and fifteenth days of the following months: October, January, April and July, which reports shall be published annually as a part of the regular report of the State Bureau of Labor Statistics. The inspectors provided for in this act shall receive as full compensation for their services the sum of eighteen hundred dollars each per annum, to be paid quarterly out of such fund in the state treasury as may be received for inspection fees: Provided, however, that in the event of such fees being inadequate to compensate the inspectors in the amount provided herein, the deficiency in the salaries shall be paid out of any moneys in the State treasury not otherwise appropriated. The mine inspector shall be required to post up in some conspicuous place, at the top of each mine visited and inspected by him, a plain statement of the condition of said mine, showing what, in his judgment, is necessary for the better protection of the lives and health of persons employed in said mine; such statement shall give the date of inspection and the number of hours spent in the inspection, also the date of the latest previous inspection, and shall be signed, by the inspector and the check weighman, and, if there be no check-weighman employed by the miners, then said statement shall be signed by the weighman at the mine: Provided, that county boards may appoint an assistant county inspector in counties producing eight hundred thousand tons of coal or more per annum, upon the written request of the district mine inspector, who shall act under the direction of the district inspector and shall receive not less than three dollars nor more than five dollars per day for time actually employed, to be paid out of the county treasury; such assistant inspector shall be one who has received a mine manager's certificate for (from) the Board of Mine Examiners of this State.

e. It shall be unlawful for any person, company or corporation to operate any coal mine in this State without first having complied with all the conditions and sanitary regulations required under existing laws and paying all inspection fees provided for in this section, and in case of the refusal of any person, company, corporation, owner, agent or operator to pay said inspection fees, after assuming to operate a coal mine, it shall be the duty of the mine inspector in said district, through the State's Attorney of the county, or any other attorney, in case of his refusal promptly to act, to proceed on behalf of the State against said person, company, corporation, owner, agent or operator of said mine, by injunction, without bond, to restrain said person, company, corporation, owner, agent or operator from continuing or attempting to continue to operate said mine or carry on a mining business.

f. Section 2 of an act entitled "An act to require inspectors of mines to furnish information to State geologists, and to provide for paying the expenses of the same," approved June 18, 1891, be and the same is hereby repealed.

SEVENTH AMENDATORY ACT, 1895.

LAWS 1895, P. 258.

JUNE 21, 1895.

AN ACT to amend section 4 of an act entitled "An act," etc. (same as in section 1).

SECTION 1. Be it enacted, etc.: That section 4 of an act entitled "An act providing for the health and safety of persons employed in coal mines," approved May 28, 1879, in force July 1, 1879; as amended by acts approved June 18, 1883, and June 21, 1883, in force July 1, 1883; as amended by an act approved June 30, 1885, in force July 1, 1885; as amended by an act approved June 16, 1887, in force July 1, 1887, and as amended by an act approved June 4, 1889, in force July 1, 1889, be amended so as to read as follows, viz:

SEC. 4. The owner, agent or operator of every coal mine, whether operated by shaft, slope or drift, shall provide and maintain for every such mine a good and sufficient amount of ventilation for such men and animals as may be employed therein, the amount of air in circulation to be in no case less than one hundred cubic feet for each man and six hundred cubic feet for each animal, per minute, measured at the foot of the downcast, and the same to be increased at the discretion of the inspector according to the character and extent of the workings, or to the amount of powder used in blasting, and said volume of air shall be forced and circulated to the face of every working place throughout the mine, so that such mine shall be free from standing powder smoke and impure gases of every kind. All doors set on main entries for the purpose of conducting the ventilation, shall be so constructed and hung as to close of themselves when opened, and shall be made sufficiently tight to effectually obstruct the air currents. In all the larger mines a boy or trapper shall be kept in attendance upon such doors, to see that they are kept securely closed, and the air currents properly controlled. Whenever the inspector shall find men working without sufficient air, or under any unsafe conditions, he shall first give the operator a reasonable notice to rectify the same, and upon his refusal or neglect so to do, may himself order them out until said portions of said mine shall be put in proper condition. All mines in which men are employed shall be examined every morning by a duly authorized agent of the proprietor, to determine whether there are any dangerous accumulations of gas, or lack of proper ventilation, or obstructions to roadways, or any other dangerous conditions, and no person shall be allowed to enter the mine until such examiner shall have reported all of the conditions safe for beginning work. Such examiner shall make a daily record of the condition of the mine in a book kept for that purpose, which shall be accessible at all times for examination by the men employed in and about the mine and by the inspector. The currents of air in mines shall be so split as to give a separate current to at least every one hundred (100) men at work, and the inspector shall have discretion to order a separate current for a smaller number of men if special conditions render it necessary. In case the galleries, roadways or entries of any mine are so dry as to become filled with dust, the operators of such mines shall be required to have such roadways regularly and thoroughly sprinkled, and it shall be the duty of the inspector to see that in all mines every practicable precaution shall be taken against accidents from the careless handling of powder within the mine, and in no case shall more powder be stored in the mine, at any one time, than in the discretion of the inspector is necessary for each day's use. It shall be unlawful for coal miners in any mine to charge a blasting hole with loose powder, or otherwise than with a properly constructed cartridge, and in dry and dusty mines to load cartridges except with a powder can constructed for the purpose, nor shall any miner fill a cartridge from a keg or powder can or handle loose powder in any manner whatever with his lamp in line with the air current passing the powder, nor shall his lamp be less than three feet horizontally from the powder that he is handling. Every miner about to fire a shot shall, before firing, see that all other persons are out of danger from the probable effects of such shot, and shall take means to prevent any person approaching the place until such shot has exploded and immediately before firing shall shout "fire." No person shall return to a missed shot within fifteen (15) minutes, unless the firing is done by electricity, and then only when the wires are disconnected from the battery; nor shall a second shot be fired in a working place where the roof is broken or faulty until the smoke from the previous shot has cleared away and the roof been examined. It shall be un-

lawful for the owner, agent or operator of any mine to permit miners to work in said mines with tools prohibited by law. It shall be unlawful for any operator or agent of a coal mine to employ persons underground, whose duties may involve contact with inflammable gases or the handling of explosives, who have not had experience in such duties, unless all such employes are placed under the immediate charge and instruction of such a number of competent men as to secure the safety of other persons employed in the same mine. The ventilation required by this section may be produced by any suitable appliances, but in case a furnace shall be used for ventilating purposes, it shall be built in such a manner as to prevent the communication of fire to any part of the works by lining the upcast with incombustible material for a sufficient distance up from said furnace: Provided, that it shall not be lawful to use a furnace for ventilating purposes or for any other purpose, that shall emit smoke into any compartment constructed in or adjoining any hoisting shaft or slope where the hoisting shaft or slope is the only means provided for the ingress and egress of persons employed in said coal mines. It shall be unlawful, where there is but one means of ingress and egress provided at a coal shaft or slope, to construct and use a ventilating furnace that shall emit smoke into a shaft as an upcast, where the shaft or slope used as a means of ingress and egress by persons employed in said coal mines is the only means provided for furnishing air to persons employed therein.

EIGHTH AMENDATORY ACT, 1897.

LAWS 1897, P. 269.

JUNE 7, 1897.

AN ACT to amend section 11e of an act entitled "An act, etc. (same as in section 1).

SECTION 1. Be it enacted, etc.: That section 11e of the amended act of 1895, entitled "An act to amend section 11 of an act entitled 'An act providing for the health and safety of persons employed in coal mines,' approved May 28, 1879, in force July 1, 1879, as amended by an act approved July (June) 18, 1883, and an act approved June 30, 1885, and to repeal section 2 of an act entitled 'An act to require inspectors of mines to furnish information to the State geologist and to provide for paying the expenses of the same,' " approved June 18, 1891, approved June 15, 1895, in force July 1, 1895, be and the same is hereby amended so as to read as follows:

Sec. 11e. It shall be unlawful for any person, company or corporation to operate any coal mine in this State, where more than five men are employed at any one time, without first having complied with all the conditions and sanitary regulations required under existing laws, and paying all inspection fees provided for in this section, and in case of the refusal of any person, company, corporation, owner, agent or operator to pay said inspection fees, after assuming to operate a coal mine, it shall be the duty of the mine inspector in said district, through the State's Attorney of the county or any other attorney, in case of his refusal promptly to act, to proceed on behalf of the State against such person, company, corporation, owner, agent or operator of said mine by injunction, without bond, to restrain said person, company, corporation, owner, agent or operator from continuing, or attempting to continue to operate said mine or carry on a mining business.

NOTE.—These amendatory acts, after the first one, profess to amend sections of the original act that had previously been amended. Under a well-known rule an act or a section of an act that has been amended becomes wholly inoperative and stands as if it had never been enacted and can not again be amended. The validity of these subsequent amendatory acts depends on whether the recital and reference in the title to the original act and the prior amendments are sufficient to save them from the operation of the general rule.

ANNOTATIONS.

NOTE.—These annotations cover the statute of 1879, and the several amendments up to and including the amendatory act of 1897.

1. CONSTITUTION REQUIRES SAFETY STATUTES.
2. CONSTITUTIONALITY OF STATUTE—CLASSIFICATION.
3. CONSTRUCTION, PURPOSE, AND ENFORCEMENT OF STATUTES.
4. COAL MINING—POLICE POWER—INSPECTION FEES.
5. CARE REQUIRED OF OPERATOR—SAFE PLACES—MINER'S WORKING PLACE.
6. INSPECTION—DUTY TO EXAMINE AND MAKE REPORT—COMPLIANCE.
7. INSPECTION—NUMBER—DISCRETION OF INSPECTORS—FEES.
8. REPORT OF MINE EXAMINER—SUFFICIENCY.
9. ESCAPEMENT SHAFT—REQUIREMENT—WHAT CONSTITUTES.
10. LIGHTS AND GATES AT SHAFTS—FAILURE TO PROVIDE.
11. ROADWAY—MEANING AND PROOF.
12. DUTY AS TO HAULAGE WAYS.
13. EMPLOYMENT OF ENGINEER—COMPETENCY—QUESTION OF FACT.
14. PROPS—DUTY OF OPERATOR TO FURNISH.
15. PROPS—MINER'S DUTY AS TO HIS WORKING PLACE.
16. REQUIREMENTS OF TOP MAN AND BOTTOM MAN.
17. NOTICE OF NONOBSERVANCE OF STATUTE—DUTY.
18. WILFUL FAILURE TO COMPLY WITH STATUTE—QUESTION OF FACT.
19. WILFUL VIOLATION OF STATUTE—WHAT CONSTITUTES—PROXIMATE CAUSE.
20. WILFUL VIOLATION OF STATUTE—QUESTION OF FACT—PROOF.
21. NEGLIGENCE OF OPERATOR—CARE EXERCISED BY MINER.
22. CARE REQUIRED OF MINER.
23. MINER MAY ASSUME OPERATOR HAS COMPLIED WITH STATUTE.
24. CONTRIBUTORY NEGLIGENCE OF MINER.
25. ASSUMPTION OF RISK—KNOWLEDGE OF DANGER.
26. STATUTE NOT ABROGATED BY CONTRACT.
27. VICE PRINCIPAL OR AGENT—DUTIES—RIGHT TO RECOVER.
28. ACTION FOR DEATH—WHO MAY SUE—SINGLE RECOVERY.
29. PURPOSE OF SURVEY.
30. MINING UNDER SURFACE—DAMAGES.
31. REPEALING EFFECT.

1. CONSTITUTION REQUIRES SAFETY STATUTES.

This act and the act of 1887 (Laws of 1887, p. 235), of which it is amendatory, were enacted pursuant to the mandatory requirements of the constitution and are of the gravest import and of the highest character and must be construed in connection with the constitutional provision requiring the enactments. (Constitution, art. 4, sec. 29.) The constitution requires that legislation shall be had for the purpose of protecting the large number of persons engaged in coal mining in the State and recognizes that the business of coal mining is attended with unusual hazards and dangers. In the construction and equipment of mines this statute requires the discharge of specific duties, so that the utmost safety can be extended to the miners, and it seeks to meet the requirement of the constitution and directs the owner, operator, or manager of a coal mine to make provisions for the safety of the miners employed within the mines.

Carterville Coal Co. v. Abbott, 181 Ill. 495, p. 501;
 Kellyville Coal Co. v. Strine, 217 Ill. 516, p. 523;
 Carterville Coal Co. v. Abbott, 81 Ill. App. 279, affirmed.

2. CONSTITUTIONALITY OF STATUTE—CLASSIFICATION.

This statute is not unconstitutional because it fails to provide for a stated number of inspections or because it fails to fix a reasonable number of annual inspections with some reasonable basis for the fees to be charged, but leaves inspections to be made at the option of inspectors with fees for possible useless inspections to be charged to the owner or operator. Any limitation on the number of inspections regardless of circumstances or dependent solely on the number of men employed or the size or shape of the mine or other circumstances that might arise would fritter away the benefits to be derived from the act and create a condition that might be productive of danger to the safety of the mine and to the lives of the miners. The dipping of a fissure by which gas may enter a mine, the gathering of foul air in certain rooms from unknown gases, or the dangerous condition of the roof may necessitate frequent inspections in the interest of safety to the mine and miners, which, in the absence of these inspections, would not be necessary. Such gaseous conditions can not be foreseen, but may result from an expansion of the work in the mine, from an explosion in the ordinary blasting of coal, or from other causes in the necessary manner of working a mine. When such conditions exist frequent inspection is necessary and an attempt on the part of the legislature to lay down a rule by fixing a given number of inspections would defeat the constitutional requirement of proper protection of operative miners.

Consolidated Coal Co. v. People, 186 Ill. 134, p. 138.

The act of 1897 amended the former law of 1895 by limiting its application to coal mines "where more than five men are employed at any one time." This is a species of classification which a legislature is at liberty to adopt providing that it be not wholly arbitrary or unreasonable.

St. Louis Consolidated Coal Co. v. Illinois, 185 U. S. 203, p. 207.

This act itself furnishes no basis for a classification as to the number of inspections and as to the price charged in each case, except that it provides that no inspection shall be required unless five operatives are employed at the same time, that at least four inspections shall be made each year, and that fees shall be dependent upon the length of time consumed and the expenses necessarily incurred in the inspection of such mine. So many elements enter into the classification as to make it impossible to seize upon one or two and make them the only basis and the act is not necessarily violative of the federal constitution from the fact that some discretion is allowed to the inspector in determining the number of times the mine shall be inspected and the fee fixed therefor, especially where no complaint is made of the abuse of such discretion, or that an inspector has been "guilty of any act tending to the injury of miners or operators of mines during their term of office."

St. Louis Consolidated Coal Co. v. Illinois, 185 U. S. 203, p. 209.

3. CONSTRUCTION, PURPOSE, AND ENFORCEMENT OF STATUTES.

This act and the amendments thereto require certain specified duties to be done by the owner, operator or manager of a coal mine. The object of the statute is the protection of miners working in coal mines and the act is an effort on the part of the general assembly to comply with the constitution by providing for ventilation of mines, the construction of escapement shafts and such other appliances as shall secure safety in all coal mines, and it is within the power of the legislature to require the preparation of maps and to cause them to be filed with the chief mine inspector of the district.

Chicago, etc., Coal Co. v. People, 181 Ill. 270, p. 273;

Consolidated Coal Co. v. People, 186 Ill. 134, p. 135.

See Daniels v. Hyland, 77 Ill. 640.

The purpose of the statute is in regard to the health and safety of the miners and requires that mine owners shall permit an inspection of their mines for this purpose and is an exercise of police power and is not in violation of the constitution, nor is the requirement that the fees of the inspector shall be paid by the mine owner or operator.

Chicago, etc., Coal Co. v. People, 181 Ill. 270, p. 275;
Consolidated Coal Co. v. People, 186 Ill. 134, p. 137.

This law was not enacted for the benefit of the owner of a mine but to protect the health and insure the safety of the persons employed in the mines.

Loose v. People, 11 Ill. App. 445, p. 447.

The act of 1897 does not in terms declare that the act of 1895 shall only apply to coal mines where more than five men are employed at any one time but it merely exempted the owners of such mines from punishment for violations of the general law.

St. Louis Consolidated Coal Co. v. Illinois, 185 U. S. 203, p. 207.

4. COAL MINING—POLICE POWER—INSPECTION FEES.

The mining of coal is recognized as a dangerous and hazardous business and is a productive industry of the greatest importance. Many thousands of men are and have been engaged in this character of work and the proper safeguarding of their lives and health is a matter of so great interest and necessity that no subject can be mentioned where there is more positive necessity for the exercise of the police power than in seeking to subserve their safety. Under this police power the legislature has the right to provide for the inspection of mines and it may under the same power also provide for the payment of fees for such inspection and may place the burden of the payment of such fees on the business that requires the employment of men in such dangerous and hazardous work.

Chicago, etc., Coal Co. v. People, 181 Ill. 270, p. 276.

Inspection fees are not taxes but are imposed under the principle that they are compensation for services rendered in and about making such inspection, which is presumably beneficial to the person upon whom the fees are imposed under and by virtue of the general police powers of the State. On this theory the legislature has power to require a mine operator to pay the fees of the State mine inspector.

Chicago, etc., Coal Co. v. People, 181 Ill. 270, p. 275;
Consolidated Coal Co. v. People, 186 Ill. 134, p. 137.

Section 11 of this act was amended by the act of 1895 (Laws 1895, p. 252), and by the act of 1897 (Laws 1897, p. 269). These amendatory acts provide that the fees of mine inspectors shall be paid by the mine owner or operator. The provision with reference to the appointment of inspector for coal mines who are to discharge duties imposed upon them is a proper exercise of the police power of the State.

Chicago, etc., Coal Co. v. People, 181 Ill. 270, p. 275;
Consolidated Coal Co. v. People, 186 Ill. 134, p. 137.

The regulation of mines and miners, their hours of labor and the precaution that shall be taken to insure their safety, health and comfort are obviously within the police powers of the several States.

St. Louis Consolidated Coal Co. v. Illinois, 185 U. S. 203, p. 207.

A State may appoint mining inspectors and provide for their payment by the owners of mines.

St. Louis Consolidated Coal Co. v. Illinois, 185 U. S. 203, p. 207.

5. CARE REQUIRED OF OPERATOR—SAFE PLACES—MINER'S WORKING PLACE.

When a coal mine operator provides a place in which the miner is to work the law does not make him a guarantor of its safety, but requires of him only the exercise of reasonable or ordinary care to have and keep it reasonably fit for the use to which it is put.

Consolidated Coal Co. v. Scheller, 42 Ill. App. 619, p. 624, 636.

See Quincy Coal Co. v. Hood, 77 Ill. 68;

Consolidated Coal Co. v. Wombacher, 134 Ill. 57;

Troughgear v. Lower Vein Coal Co., 62 Iowa 576.

This statute names all the duties to be performed by a mine owner or operator that are necessary to be complied with for the proper and safe conducting of a dangerous business, but it does not impose upon such owner or operator the duty of propping the roof of a mine to keep it safe.

Consolidated Coal Co. v. Parson, 66 Ill. App. 434, p. 438;

Consolidated Coal Co. v. Scheller, 42 Ill. App. 635.

See Consolidated Coal Co. v. Yung, 24 Ill. App. 255;

Missouri & Ill. Coal Co. v. Schwalb, 77 Ill. App. 593.

This amendatory act makes it the duty of the owner or operator of every coal mine to fence the top of every shaft by gates properly protecting the entrance thereto.

Springside Coal Min. Co. v. Grogan, 53 Ill. App. 60, p. 63.

Section 4 of this act was amended by section 18 of the act of April 18 of 1899 (Laws of 1899, p. 315) providing for the placing of a conspicuous mark on any dangerous condition found to exist as notice to miners to keep out.

Kellyville Coal Co. v. Strine, 217 Ill. 516, p. 522.

See Kellyville Coal Co. v. Strine, 117 Ill. App. 115.

The rule requiring a coal mine operator to use reasonable diligence to furnish a reasonably safe place for miners to work has no application to miners or other employees whose duties are to make dangerous places safe.

Kellyville Coal Co. v. Bruzas, 223 Ill. 595;

Tygett v. Sunnyside Coal Co., 121 Ill. App. 77;

Oriel v. Burden Coal Co., 171 Ill. App. 175, p. 178.

6. INSPECTION—DUTY TO EXAMINE AND MAKE REPORT—COMPLIANCE.

The failure of a coal mine operator to cause the mine to be examined every morning with a safety lamp by a competent person, to ascertain if fire damp is present in the mine, does not render the operator liable for the death of a miner where gas was being generated at the bottom of a shaft and not at the "working place" where the accident occurred. It would have been of no use to examine the working place with a safety lamp in the morning, as the miners had worked at such working places with their open lamps some two or three hours before the accident occurred. This is sufficient to show that the failure to examine the place with a safety lamp in the morning in no manner contributed to the accident, and under the circumstances no good effect would have resulted from such an examination made in the morning.

Coal Run Coal Co. v. Jones, 127 Ill. 379, p. 382;

Coal Run Coal Co. v. Jones, 19 Ill. App. 365, reversed.

See Muddy Valley Min., etc., Co. v. Phillips, 39 Ill. App. 376, p. 380.

The failure of a mine operator to cause the working places in a mine to be examined with a safety lamp by a competent person every morning, cannot make the mine operator liable for the death of a miner caused by an explosion of gas in a shaft where the miners working in the shaft knew that gas was generated, and had made provisions for its escape or dilution by bringing air into the shaft by downcast and taking it out by upcast, and where the miner who was killed expressed his belief that there was not a dangerous accumulation of the gas below a certain scaffold or platform and where with knowledge of the presence of the gas the miner voluntarily went below the platform and where the miners cautioned each other not to get the lights down too low or to get them where the gas was, and where the explosion occurred when the miner tapped his lamp on the toe of his boot and brought the flames of the lamp in contact with the gas flowing upward from beneath the platform, resulting in an explosion which caused his death.

Coal Run Coal Co. v. Jones. 127 Ill. 379, p. 383;

Coal Run Coal Co. v. Jones, 19 Ill. App. 365, reversed.

See Muddy Valley Min., etc., Co. v. Phillips, 39 Ill. App. 376, p. 380.

The duties of a coal mine operator under this statute do not end with the making of the examination on each morning as required; but the law goes further and provides that no person should be permitted to enter the mine until the examiner has reported all the conditions safe for beginning work.

Pawnee Coal Co. v. Royce, 184 Ill. 402, p. 415;

Pawnee Coal Co. v. Royce. 79 Ill. App. 469, reversed;

Spring Valley Coal Co. v. Rowatt. 96 Ill. App. 248, p. 253.

7. INSPECTION—NUMBER—DISCRETION OF INSPECTORS—FEES.

Under section 11 of the act of 1879 one mine may be required to be inspected oftener than another depending largely upon the number of miners, the depths of their workings and the nature of the ground through which the excavations are made. While at a certain stage of excavation, the precautions imposed by a mining inspector may be quite adequate for the protection of the operatives, at another time the same precautions would be obviously unsafe, depending largely upon the rapidity with which the excavations were made and the changes of air observed as the excavations progress.

St. Louis Consolidated Coal Co. v. Illinois, 185 U. S. 203, p. 209.

In enacting a law with regard to the inspection of mines there is no objection in case the legislature finds it impractical to classify the mines for the purpose of inspection to commit that power to a body of experts who are not only experienced in the operation of mines, but are acquainted with the details necessary to be known to make a reasonable classification, although it may affect the amount of fees to be paid by the mine owners. The matter of the number of inspections could be intrusted to no one so safely as to the inspector of the district who is appointed with great care and who must be a man of mature age, a citizen of the State and having special knowledge of practical mining. The fact that the fees of the inspectors are not dependent upon the number of inspections shows that the inspector would gain nothing by multiplying the number of his visits or magnifying the amount of his fees.

St. Louis Consolidated Coal Co. v. Illinois, 185 U. S. 203, p. 211.

The fact that the specified time or occasion when inspections are to be made is not limited does not give inspectors power to inspect daily and unnecessarily impose a burden by the imposition of inspection fees which would in effect destroy the business of the mine owner. The act requires that there must be

four inspections a year and imposes the duty on the inspectors to make the inspection as often as may be deemed necessary and proper, but they are made subject to removal for neglect of duty or malfeasance in the discharge of duty, and the statute provides that they shall not be guilty of any act done to the injury of miners or the operators of mines during their term of office. "An attempt to impose an unreasonable inspection would be an act tending to the injury of operators of mines, for which the terms of the act provide a means of prevention, and the law is not so powerless that it could not prevent extortions of this character."

Chicago, etc., Coal Co. v. People, 181 Ill. 270, p. 276;
Consolidated Coal Co. v. People, 186 Ill. 134, p. 138.

8. REPORT OF MINE EXAMINER—SUFFICIENCY.

The report of a mine examiner is insufficient where it does not state that all the conditions in the mine are safe for beginning work. And a miner is not required to look for the record and to ascertain for himself as to the contents of the report, but he has the right to assume that the operator would comply with the statutory requirements and not permit him or others to enter the mine until all the conditions are safe for beginning work.

Pawnee Coal Co. v. Royce, 184 Ill. 402, p. 415;
Pawnee Coal Co. v. Royce, 79 Ill. App. 469, reversed.

The statute requires the mine operator to have an examination made each morning and a report made of every examination; but a printed report with a favorable statement as to the condition of the mine, giving the miner nothing to do but to date the report and sign it, while a technical compliance with the statute is not a method to be approved. The failure to state in such a report that all the conditions in the mine were safe is a violation of the statute.

Spring Valley Coal Co. v. Rowatt, 96 Ill. App. 248, p. 252.

A daily report by an examiner made in a book containing printed blanks to the effect that he had examined the mine before the commencement of work therein and found the same "free from dangerous gases, the air currents circulating properly, and the entrance in a safe condition," is not a sufficient compliance with the statute, as it fails to report that all the conditions concerning which the statute requires an examination and report to be made were safe for beginning work.

Spring Valley Coal Co. v. Rowatt, 96 Ill. App. 248, p. 252.

9. ESCAPEMENT SHAFT—REQUIREMENT—WHAT CONSTITUTES.

By section 3 of the Amendatory Acts of 1887 and 1889 a coal mine operator employing more than 6 men is required to construct escapement shafts equipped with stairways at an angle of not more than 45 degrees, partitioned off from the main airway with substantial handrails and platforms.

Cartersville Coal Co. v. Abbott, 181 Ill. 495, p. 501.

When it is made to appear that a mine is being operated without an escapement shaft, contrary to law, and is dangerous to the persons engaged in working the same, the statute requires the court to make an order prohibiting the further working of a mine until the same shall have been made safe and the provisions of the statute complied with. A court can not in such a case undertake by its decree to settle conflicting rights of mine owners.

Loose v. People, 11 Ill. App. 445, p. 449.

A pit or hole intended to be used when completed as a shaft of a coal mine, but where no coal has been reached or mined, can not be held as a matter of law to be a shaft of a coal mine within the meaning of this statute; but it is a question of fact whether such pit or hole was a coal mine. The test of the applicability of the statute is not the depth of the pit or hole nor the peril of one engaged in sinking it, but whether it is the shaft of a coal mine.

Springside Coal Min. Co. v. Grogan, 53 Ill. App. 60, p. 66.

See *Catlett v. Young*, 143 Ill. 74;

Cox v. Mount Olive & Staunton Coal Co., 127 Ill. App. 24, p. 25;

Moore v. Dering Coal Co., 147 Ill. App. 95, p. 98.

The owner of a coal mine can not avoid the provisions of this statute as to the requirements of escapement shafts by claiming a right to connect his mine with an adjoining mine and use for his miners the escapement shaft in such adjoining mine, where there is no agreement to that effect with the adjoining mine owner and where such adjoining mine owner has the right at any time to close the opening between the two mines. But the conflicting rights of adjoining mine owners as to the common use of an escapement shaft can not, in any event, be litigated in a prosecution by the State against a mine owner for operating his mine without complying with the provisions of this act.

Loose v. People, 11 Ill. App. 445, p. 446.

The provisions of the statute as to fencing the top of shafts apply only to coal mines and do not apply to mines out of which are taken lead or other minerals or ores, nor to pits or excavations not parts of a coal mine. While all pits or holes made in the earth might be dangerous if unguarded, yet the legislature saw fit to limit the provisions of this statute to and made it the duty of the owner or operator of every mine, thereby limiting the statute to shafts used in a coal mine.

Springside Coal Min. Co. v. Grogan, 53 Ill. App. 60, p. 66.

A mine operator whose coal mine was between 300 and 400 feet deep had three years in which to construct the required escapement shaft under the act of 1877; and to require an operator to be controlled by that act and to leave that law in force and effect, in so far as the matter was concerned, the legislature enacted the third section of the law of 1879 (Laws of 1879, p. 204) and added the proviso that nothing in the section should be construed to extend the time allowed by law for constructing escapement shafts. This proviso evidently referred to the act of 1877, as it was the only law on the subject then in force and the manifest intention was, when that law had fixed a time within which shafts should be constructed, not to interfere with that law so far as extending the time for such construction.

Hamilton v. State, 102 Ill. 367, p. 369.

A coal mine operator who willfully fails to securely fence the top of a shaft as required by this statute is liable for an injury or the death of a miner resulting from such failure to comply with the statute.

Catlett v. Young, 143 Ill. 74, p. 81;

Aetitus v. Spring Valley Coal Co., 246 Ill. 32, p. 41.

10. LIGHTS AND GATES AT SHAFTS—FAILURE TO PROVIDE.

Section 6 of the original act required among other things that a sufficient light should be furnished at the top and bottom of a shaft to insure as far as possible the safety of persons getting on or off the cage. A mine operator can not avoid the force of the statute in failing to keep a sufficient light by substituting a plan by ordering a servant to go to the landing with a lantern when the cages bring workmen from the mine to the surface of the ground in the

night time; and if the servant fails to be present when a cage is brought to the surface in the dark the operator will be liable for injuries sustained by a miner in alighting from the cage, though the immediate cause of the injury was the act of the miner in stepping from the car after it had passed the landing, as the existing condition of darkness must be taken as the proximate cause of the injury under the circumstances, and the mine owner or operator can not be heard to say, as against his violation of the statute, that the injured miner was guilty of contributory negligence.

Odin Coal Co. v. Denman, 185 Ill. 413, p. 419;
Eldorado Coal & Coke Co. v. Swan, 227 Ill. 586, p. 592;
Odin Coal Co. v. Denman, 84 Ill. App. 190.

Where a mine owner and operator failed securely to fence the top of the shaft by gates properly protecting the shaft as required by section 8, but substituted a different arrangement, so that cages of coal could be elevated above the top of the shaft to the tippie house, such owner and operator in an action for damages for injuries caused by the failure to securely fence the top of the shaft as required can not prove that he in good faith intended to comply with the provisions of the statute and that he did not intend by the substituted arrangements a willful or any violation of the statute, as there was no charge of evil or wrongful intent.

Odin Coal Co. v. Denman, 185 Ill. 413, p. 417;
Dunk Bros. Coal & Coke Co. v. Peton, 192 Ill. 41, p. 45;
Eldorado Coal & Coke v. Swan, 227 Ill. 586, p. 592;
Odin Coal Co. v. Denman, 84 Ill. App. 190.
 See *Hollingshead v. Wabash Coal Co.*, 142 Ill. App. 641, p. 644.

11. ROADWAY—MEANING AND PROOF.

A court may not assume that the term "roadway" as used in the statute means only the space between the rails or the space between the rails and a short distance on each side of the rails sufficient to allow the passage of coal cars, without reference to accumulations of dirt and stone or other obstructions in the entry on the outside of the rails. But where evidence is introduced to show that the roadway in a particular case was understood to be the entire width of an entry and the jury trying the case finds that the roadway was understood to be the entire entry, such finding is binding on the court and a mine operator will be held liable for damages for permitting obstructions to remain in the entry on the sides of the track, by reason of which a car driver was injured.

Pawnee Coal Co. v. Royce, 184 Ill. 402, p. 415;
Pawnee Coal Co. v. Royce, 79 Ill. App. 469, reversed.

12. DUTY AS TO HAULAGE WAYS.

Section 8 applies to gangways or haulage ways in a mine where the cars are drawn by mules as well as to mines where the cars in such gangways or haulage ways are operated by machinery.

Sangamon Coal Min. Co. v. Wiggerhaus, 25 Ill. App. 77, p. 78.
Affrading Sangamon Coal Min. Co. v. Wiggerhaus, 122 Ill. 279.

A mine operator is liable in damages for an injury to a car driver caused by failure to provide the gangway or haulage way with proper means of signaling between the stopping places and for a failure to provide refuge holes in which a car driver could seek safety in case of a collision.

Sangamon Coal Co. v. Wiggerhaus, 25 Ill. App. 77, p. 78.

13. EMPLOYMENT OF ENGINEER—COMPETENCY—QUESTION OF FACT.

The duty of a mine operator as to the employment of an engineer under section 7 is substantially the same as that under the common law.

Niantle Coal Min. Co. v. Leonard, 25 Ill. App. 95, p. 97.

Under section 7, as under the common law, the question as to whether an engineer was incompetent and as to whether the mine operator knew or should have known of such incompetency, are question of fact for a jury to determine.

Niantic Coal Min. Co. v. Leonard, 25 Ill. App. 95, p. 97.

Affirming Niantic Coal Min. Co. v. Leonard, 126 Ill. 216.

A mine operator is liable in damages under section 7 for injuries to a miner caused by letting the cage down too rapidly, where the evidence shows that the engineer employed was not reasonably fit for the service and that the mine operator knew, or by use of ordinary care should have known, of such incompetency.

Niantic Coal Min. Co. v. Leonard, 25 Ill. App. 95, p. 98.

Affirming Niantic Coal Min. Co. v. Leonard, 126 Ill., p. 216.

14. PROPS—DUTY OF OPERATOR TO FURNISH.

It is as much the duty of the mine operator to furnish props of sufficient dimensions as it is to furnish props at all.

Western Anthracite Coal & Coke Co. v. Beaver, 95 Ill. App. 95, p. 99.

This statutes makes it the duty of every owner or operator of a coal mine to keep a supply of timber constantly on hand of sufficient length and dimensions to be used as props and cap pieces and to deliver the same as required, with the miner's empty car, so that the miner may at all times be able to properly secure his workings for his own safety.

Mount Olive & Staunton Coal Co. v. Herbeck, 190 Ill. 39, p. 41;

Mount Olive & Staunton Coal Co. v. Herbeck, 92 Ill. App. 441;

Mount Olive & Staunton Coal Co. v. Rademacher, 190 Ill. 538, p. 543;

Kellyville Coal Co. v. Yelnka, 94 Ill. App. 74, p. 81.

To entitle an injured miner to recover for the alleged failure of the mine operator to furnish props the evidence must show that the operator willfully failed and neglected to deliver the props and caps of sufficient length and dimensions with which to prop the roof and that because of such willful failure and neglect the miner was injured.

Western Anthracite Coal & Coke Co. v. Beaver, 95 Ill. App. 95, p. 96.

Where the evidence shows that for three consecutive days a miner's demand for props and caps was unheeded and the only excuse was that on one of such days the regular timberman was absent on account of sickness is sufficient to show a violation of the statute, especially where the mine operator had no regular mine examiner and the duty to examine the mine, as required by the statute, was habitually neglected.

Donk Bros. Coal & Coke Co. v. Peton, 95 Ill. App. 193, p. 196;

Kellyville Coal & Coke Co. v. Petraytis, 95 Ill. App. 635, p. 636.

When a miner makes a reasonable and timely demand for timbers for a particular and specified room to be used in propping the roof of his working place, the mine owner and operator should furnish him such timbers as he calls for. The practical miner at work in a given room whose life is at stake is quite as likely to call for the proper timber as the mine manager would be to furnish suitable props if the selection was left to his choice or convenience.

Springfield Mining Co. v. Gedutis, 227 Ill. 9, p. 12.

See Vaughn v. O'Gara Coal Co., 173 Ill. App. 268, p. 271.

Where a timber boss knew for several days before a miner was injured that timbers for props and cap pieces were not furnished in the miner's room as required by the statute and as repeatedly requested by the miner during such

time, such knowledge and failure amount to a willful violation within the meaning of section 16.

Kellyville Coal Co. v. Yehuka, 94 Ill. App. 74, p. 80;

Odin Coal Co. v. Denman, 185 Ill. 413.

See Catlett v. Young, 143 Ill. 74.

By section 16 of this act a mine operator is required to supply props and cap pieces "so that the workmen may at all times be able to properly secure their workings for their own safety." But the amendatory act of 1899 requires mine operators to provide props, caps, and timbers "for the securing of the roof by miners," and the duty is imposed upon the miner to prop and secure his place. The uncertainty in this act is removed by clear and definite statements in the revision of 1899.

Southern Coal & Min. Co. v. Hopp, 133 Ill. App. 239, p. 242.

15. PROPS—MINER'S DUTY AS TO HIS WORKING PLACE.

Where timbermen are employed the miners are relieved of the duty and labor of setting props, but they are not thereby relieved of the duty of observing the conditions and promptly reporting to the mine manager or timbermen any signs of danger they may discover which require their services. Miners may be particularly charged with this duty by rules or notices by which it is expressly made the duty of every miner to examine the roof or top coal of his working place every morning, and if found unsafe to take it down immediately or prop up the loose material and see that it is in safe condition before commencing work.

Consolidated Coal Co. v. Scheller, 42 Ill. App. 619, p. 630, 635.

See Consolidated Coal Co. v. Yung, 24 Ill. App. 255, p. 256;

Consolidated Coal Co. v. Schieber, 65 Ill. App. 304, p. 309;

Consolidated Coal Co. v. Parson, 66 Ill. App. 434, p. 439.

A court may take judicial notice of the fact that veins of coal in a particular locality are overlaid immediately with a stratum of slate or rock, which constitute the roof, provided by nature, and under which the miners employed in the mine must work. The mine operator can not choose between the roof so provided and some other to be constructed by himself, and that is fully known to the miners there employed. The overlying stratum is not uniform in consistency, thickness, or strength, and to make it safe as a roof props and other artificial appliances are necessary. Miners become, by reason of experience and interest, competent, if not the best, judges of the character and condition of this natural roof at given places and of the extent to which it needs artificial support. Where no timbermen are employed it is the duty of miners as a part of their employment to carefully observe the roof under which they are working and to set props whenever they appear to be needed. This is implied by the statute which requires coal-mine operators to keep a supply of timbers on hand of the proper length and dimension and to deliver the same as required by the miners.

Consolidated Coal Co. v. Scheller, 42 Ill. App. 619, p. 629.

16. REQUIREMENTS OF TOP MAN AND BOTTOM MAN.

Section 6 of this act was superseded by sections 23 and 28 of the act of 1926, but the sense and meaning of the requirements that the top man and bottom man shall remain at their respective posts of duty has not been changed.

Thompson v. O'Gara Coal Co., 161 Ill. App. 39, p. 41.

17. NOTICE OF NONOBSERVANCE OF STATUTE—DUTY.

After notice is received by a coal-mine operator that one of the passage ways connecting with the escapement shaft or place of exit from the main hauling ways is not 5 feet in height, the operator is not entitled under the statute to a reasonable time within which to put such passage way in the condition required by the statute. But on receipt of such notice the operator should not allow anyone to work in the passage way at the place where it does not comply with the statute until a report of the mine examiner had been made showing that the passage way was in the condition required by law.

Spring Valley Coal Co. v. Rowatt, 96 Ill. App. 248, p. 250.

18. WILLFUL FAILURE TO COMPLY WITH STATUTE—QUESTION OF FACT.

A conscious failure on the part of a mine operator to observe and comply with the provisions of the mine and miner's act, even though no evil intent induced the failure, is a wilful violation of the statute. The question as to whether a willful violation of the statute was the proximate cause of an injury complained of is one of fact.

Athens Mining Co. v. Carnduff, 221 Ill. 354, p. 357.

Under section 14 the only cause of negligence upon which a recovery can be based are those specified in the section and these are willful violations of the act, or wilful failures to comply with its provisions, and proof of a failure to comply with the provisions of the section in that the mine owner and operator failed to furnish the drum with a sufficient brake and that the failure so to do caused the death of a miner, damages for which the action was brought, is sufficient to create a liability under the statute.

Beard v. Skeldon, 13 Ill. App. 54, p. 62.

A miner injured by a prop or drill carried in a cage by him in violation of the statute can not recover for the injury occasioned directly by such violation on his part. But if the mine operator wilfully and negligently failed to comply with the statute in properly equipping the cage or in failing to furnish an engineer reasonably fit for operating the engine and the cage, and the injury was caused principally and substantially by such failure, then the mine operator would be liable although the miner may have been negligent in carrying a prop or drill on the cage and such negligence may have in some degree contributed to the injury.

Niantic Coal Min. Co. v. Leonard, 25 Ill. App. 95, p. 96.

See Illinois Fuel Co. v. Parsons, 38 Ill. App. 182, p. 185;

Catlett v. Young, 38 Ill. App. 198.

When the mouth of a shaft is not protected in substantial compliance with the requirements of this act, the mine owner necessarily must be held to have wilfully, or what is the same, knowingly, failed to comply with the law, and injury to person or property which is occasioned by such failure gives a right of action without reference to the caution or prudence of the person injured.

Catlett v. Young, 38 Ill. App. 198, p. 201.

See Springside Coal Min. Co. v. Grogan, 53 Ill. App. 60, p. 68.

The failure of a mine operator to cause the mine to be examined as the statute requires is a wilful violation of the statute, and where the negligence of an operator is wilful, it is immaterial whether the miner was at the time he received the injury in the exercise of ordinary care.

Spring Valley Coal Co. v. Rowatt, 96 Ill. App. 248, p. 253;
 Spring Valley Coal Co. v. Rowatt, 196 Ill. 156;
 Royce v. Pawnee Coal Co., 184 Ill. 482;
 Athens Min. Co. v. Carnduff, 123 Ill. App. 178, p. 186.
 See Cartersville Coal Co. v. Abbott, 181 Ill. 495, p. 502.

Section 14 of this act proceeds upon the theory that the violation or omission of duty must be wilful, and it is made the duty of an agent as well as the owner to place catches on the cages used for hoisting and lowering men, and the owner and agent are equally guilty of wilful omission of duty in failing to do so and are equally liable to prosecution in case of injury arising therefrom. The owner and an agent operating the mine with full authority and furnished with necessary means by the owner and having ample power to provide the appliances required would be equally liable in an action for damages resulting to a miner by reason of the failure to equip the hoisting cage with appliances required by this act. And there can be no recovery in an action for the death of the agent caused by his own neglect to furnish and equip the hoisting cage with the appliances as required by the statute.

Beaucoup Coal Co. v. Cooper, 12 Ill. App. 373, p. 337.

The design of the statute in requiring the drum to be supplied with a brake was to compel the furnishing of an appliance which would hold the cage securely while suspended in and over the shaft, and prevent it going down if the machinery for any reason should fail to sufficiently hold it, whether from the breaking or imperfection of some of its parts. A failure of the motive or the static power to hold it in equilibrium or from any other cause is a "giving-out" of the machinery within the meaning of the statute. And a failure to furnish the drum with a sufficient brake is a wilful violation of the act and renders the owner liable for the death of a miner caused by such wilful omission.

Beard v. Skeldon, 13 Ill. App. 54, p. 58;
 Beard v. Skeldon, 113 Ill. 584, p. 587;
 Illinois Third Vein Coal Co. v. Cloni, 215 Ill. 583, p. 588.

19. WILFUL VIOLATION OF STATUTE—WHAT CONSTITUTES—PROXIMATE CAUSE.

By this section the operator of a coal mine is made liable in damages for injury to person or property or for death of a miner occasioned by the wilful violation of any of the provisions of the act.

Cartersville Coal Co. v. Abbott, 181 Ill. 495, p. 501.

A coal-mine operator is charged with knowledge of the provisions of the statute and with the duty of complying therewith. But there is no evil intent operating to induce the failure to comply with the statute and that element is not a necessary ingredient of wilfulness within the meaning of the word wilful as used in this statute. As here used an act consciously omitted is wilfully omitted, in the meaning of the word wilful as used in this statute.

Odin Coal Co. v. Denman, 185 Ill. 413;
 Donk Bros. Coal & Coke Co. v. Peton, 95 Ill. App. 193 p. 196.

An act consciously omitted is wilfully omitted in the meaning of the word "wilful" as used in this statute and all the statutes relative to the duties of mine owners and operators.

Odin Coal Co. v. Denman, 185 Ill. 413, p. 417;
 Donk Bros. Coal & Coke Co. v. Peton, 192 Ill. 41, p. 44;
 Carterville Coal Co. v. Abbott, 181 Ill. 485, p. 502;
 Catlett v. Young, 143 Ill. 74;
 Spring Valley Coal Co. v. Greig, 226 Ill. 511, p. 519;
 Marquette Third Vein Coal Co. v. Dielie, 208 Ill. 116-122;
 Kellyville Coal Co. v. Strine, 217 Ill. 516;
 Eldorado Coal & Coke Co. v. Swan, 227 Ill. 586, p. 590;
 Odin Coal Co. v. Denman, 84 Ill. App. 190.

An owner, operator, or manager who so constructs or equips his coal mine that he knowingly operates it without conforming to the provisions of the statute, wilfully disregards its provisions and wilfully disregards the safety of miners employed therein; and such owner, operator or manager who wilfully disregards a duty enjoined on him by the legislature and places in danger the lives and limbs of those employed therein, cannot be heard to say that because a miner enters a mine with knowledge that the owner or operator failed to comply with his duty he is guilty of contributory negligence. Likewise a miner using the means provided by the owner or operator for entering the shaft of his mine is not guilty of contributory negligence.

Carterville Coal Co. v. Abbott, 181 Ill. 495, p. 501;
 Odin Coal Co. v. Denman, 185 Ill. 413, p. 418;
 Donk Bros. Coal & Coke Co. v. Peton, 192 Ill. 41, p. 45;
 Spring Valley Coal Co. v. Rowatt, 196 Ill. 156, p. 160;
 Davis v. Illinois Collieries Co., 232 Ill. 284, p. 290;
 Willis Coal Co. v. Grizzeil, 100 Ill. App. 480, p. 484;
 Sunnyside Coal Co. v. Center, 100 Ill. App. 546, p. 547;
 Kirchener v. Schoal Creek Coal Co., 162 Ill. App. 52, p. 54.
 See Pawnee Coal Co. v. Royce, 184 Ill. 402, p. 415;
 Kellyville Coal Co. v. Strine, 217 Ill. 516, p. 523;
 Kulvie v. Bunsen Coal Co., 253 Ill. 386, p. 388;
 Kellyville Coal Co. v. Yehnka, 94 Ill. App. 74, p. 81.

A mine owner and operator who failed to partition the escapement shaft from the main air way in his mine and who failed to provide the stairway in the escapement shaft with substantial handrails and with a platform protected by railing as required, is liable to a person who while descending the stairway in connection with his duties in the mine was injured by falling from a platform, because of the failure of the operator to properly protect the platform.

Carterville Coal Co. v. Abbott, 181 Ill. 495, p. 503;
 Carterville Coal Co. v. Abbott, 81 Ill. App. 279, Affirm.

20. WILFUL VIOLATION OF STATUTE—QUESTION OF FACT—PROOF.

In an action by a miner against a coal-mine operator for damages for injuries caused by an explosion due to alleged improper ventilation, the question, as to whether the failure of the mine operator to perform his statutory duty was wilful, is one of fact to be determined by the jury.

Mud Valley etc. Co. v. Phillips, 39 Ill. App. 376, p. 379;
 Donk Bros. Coal & Coke Co. v. Peton, 95 Ill. App. 193, p. 196.

It is not sufficient to maintain an action for injuries to a miner to prove merely a wilful omission of statutory duty on the part of the mine owner or operator. But it is necessary that the injury complained of shall have resulted

from such omission and that the omission complained of was the proximate cause of the injury.

- Odin Coal Co. v. Denman, 185 Ill. 413, p. 418;
- Kellyville Coal Co. v. Strine, 217 Ill. 516, p. 528.
- See Missouri Mal. Iron Co. v. Dillon, 206 Ill. 145;
- Athens Mining Co. v. Carnduff, 221 Ill. 354, p. 357;
- Catlett v. Young, 143 Ill. 74;
- Carterville Coal Co. v. Abbott, 181 Ill. 495;
- Springvalley Coal Co. v. Greig, 226 Ill. 511, p. 519;
- Odin Coal Co. v. Denman, 84 Ill. App. 190.

In an action by a coal miner against a mine operator for damages for injuries caused by an explosion of gas it is sufficient to justify a recovery where the evidence shows that through the wilful neglect of the statutory duty a dangerous accumulation of gas was caused resulting in the injuries complained of. A miner working in a mine is entitled to the protection afforded by the performance of the duties imposed by the statute.

- Mud Valley etc. Co. v. Phillips, 39 Ill. App. 376, p. 379.
- See Coal Run Coal Co. v. Jones, 19 Ill. App. 371.

Mere noncompliance with the requirements of the statute is not necessarily a wilful failure to observe such requirements. A jury in an action for damages might be justified in regarding noncompliance as wilful from circumstances, but whether so or not is a question of fact for the jury to determine from the proof either positive or circumstantial.

- Springside Coal Min. Co. v. Grogan, 53 Ill. App. 60, p. 68;
- Odin Coal Co. v. Denman, 84 Ill. App. 190, p. 201.
- See Moore v. Centralia Coal Co., 140 Ill. App. 291, p. 297.

21. NEGLIGENCE OF OPERATOR—CARE EXERCISED BY MINER.

If a miner is injured as a result of some act of negligence upon the part of the mine owner other than failure to comply with specific duties required by the statute, then the miner so injured must have been in the exercise of ordinary care before he can maintain an action and must allege and prove that he was at the time of the injury in the exercise of such care; but the rule is different under this legislation, and where there is a wilful failure to comply with the provisions of the statute, the right of recovery can not depend in such case on the exercise of ordinary care by the person injured, nor can he be precluded from a recovery by mere contributory negligence.

- Carterville Coal Co. v. Abbott, 181 Ill. 495, p. 503;
- Litchfield Coal Co. v. Taylor, 81 Ill. 590;
- Catlett v. Young, 143 Ill. 74;
- Carterville Coal Co. v. Abbott, 81 Ill. App. 279, affirmed;
- Western Anthracite Coal & Coke Co. v. Beaver, 95 Ill. App. 95, p. 96;
- Willis Coal Mining Co. v. Grizzell, 100 Ill. App. 480, p. 484;
- Kirschner v. Schoal Creek Co., 162 Ill. App. 52, p. 54;
- Kilduff v. Consolidated Coal Co., 164 Ill. App. 194, p. 197.
- See Bartlett Coal & Min. Co. v. Roach, 68 Ill. 174;
- Calumet Iron & Steel Co. v. Martin, 115 Ill. 358;
- Coal Run Co. v. Coughlin, 19 Ill. App. 412, p. 416.

Gross negligence is regarded in this State simply as the want of use of ordinary care; ordinary care is all that is required, but this is required in all cases. In some cases more action is required to avoid injury than in others because of the variant circumstances and the different situations under which the injury may occur.

- Chicago, etc., Coal Co. v. Peterson, 39 Ill. App. 114, p. 117.

22. CARE REQUIRED OF MINER.

A coal miner waiting for props to sustain the roof of a mine where he was working, the delivery of which was required by the statute to be made to the

miner by the mine operator through the empty car drivers, may be justified in continuing work notwithstanding there was apprehended danger, for a reasonable length of time after the demand for props, expecting the props to be delivered; but under some circumstances reasonable care would require the miner to desist at once from working. A miner under such circumstances must act as a reasonable, prudent person should act which would denominate reasonable or ordinary care.

Chicago, etc., Coal Co. v. Peterson, 39 Ill. App. 114, p. 118.

In an action for injuries occasioned by any wilful violation of this act or by wilful failure to comply with any of its provisions, the right of recovery should not depend upon the exercise of ordinary care on the part of the person injured or killed; but if the statute has been complied with, or if the injury is not occasioned by its wilful violation or wilful failure to comply, but by some other alleged negligence of the mine owner and the person injured or killed failed to use ordinary care, then there would be no right of action.

Catlett v. Young, 38 Ill. App. 198, p. 201;
 Springside Coal Min. Co. v. Grogan, 53 Ill. App. 60, p. 68.
 See Catlett v. Young, 143 Ill. 74.

A miner in imminent peril is not required to exercise the care and prudence that he would under ordinary circumstances.

Swengel v. Illinois Third Vein Coal Co., 154 Ill. App. 409, p. 413.

23. MINER MAY ASSUME OPERATOR HAS COMPLIED WITH STATUTE.

Under this statute the duty of making each morning an examination and having a written report thereof is placed upon the operator of a mine and miners have a right to act upon the theory that the operator has complied with the law. No miner is bound to see either that an examination or a report has been made.

Spring Valley Coal Co. v. Rowatt, 96 Ill. App. 248, p. 253.

The amended section 4 of this act makes it the duty of a mine owner or operator to make an examination of the mine every morning and no persons are allowed to enter the mine until the examiner has reported all of the conditions safe for beginning work. The examiner is required to make a daily record of the condition of the mine in a book kept for that purpose, which shall be accessible to all employees in and about the mine. Where the required examination was made but the report of the examiner did not state that all of the conditions were safe for beginning work, but workmen were permitted to enter the mine and begin work. The driver of a coal car under such circumstances was not required to look for the record, nor was he required to rely on the promise of a mine foreman to make an entry safe, but he had the right to assume that the operator would not only keep its promise to repair but that it would comply with the statutory requirements, and he was not bound to ascertain each morning whether or not the owner or operator was complying with the statute, and he may recover damages for injuries sustained by reason of the unsafe condition of the roadway.

Pawnee Coal Co. v. Royce, 184 Ill. 402, p. 415;
 Pawnee Coal Co. v. Royce, 79 Ill. App. 469, reversed;
 Kellyville Coal Co. v. Strine, 217 Ill. 516, p. 527.
 See Hollingshead v. Wabash Coal Co., 142 Ill. App. 641, p. 645.

24. CONTRIBUTORY NEGLIGENCE OF MINER.

This statute is a reenactment in substance of the statute of 1872 and the reenactment of section 14 giving the right of action is in the same language. The legislature must be regarded as acting in view of the interpretation that

had been placed by the courts upon the act of 1872, and intended that in case of injuries occasioned by the wilful violation of this act or by wilful failure to comply with any of its provisions, the right of recovery should not depend upon the exercise of ordinary care by the person injured or killed, or that a recovery should be precluded by contributory negligence.

Catlett v. Young, 143 Ill. 74, p. 81.

See Catlett v. Young, 38 Ill. App. 198, p. 202.

Mere contributory negligence on the part of a miner will not defeat a right of recovery where he is injured by the wilful disregard of the statute, either by an act of omission or commission on the part of the owner, operator, or manager. The principles applicable to negligence and contributory negligence are not to be applied where the negligence and contributory negligence relate to the violation of the state and the provisions of the constitution, which are mandatory in requiring the legislation, as this would destroy the effect of the statute.

Cartersville Coal Co. v. Abbott, 181 Ill. 495, p. 502;

Pawnee Coal Co. v. Royce, 184 Ill. 402, p. 415;

Odin Coal Co. v. Denman, 185 Ill. 413, p. 419;

Western Anthracite Coal & Coke Co. v. Beaver, 192 Ill. 333, p. 337;

Spring Valley Coal Co. v. Rowatt, 196 Ill. 156, p. 160;

Kellyville Coal Co. v. Strine, 217 Ill. 516, p. 523;

Kulvie v. Bunsen Coal Co., 253 Ill. 386, p. 388;

Spring Valley Coal Co. v. Patting, 210 Ill. 342, p. 353;

Spring Valley Coal Co. v. Patting, 112 Ill. App. 4, affirmed;

O'Fallon Coal Min. Co. v. Laquet, 198 Ill. 125, p. 129;

Donk Bros. Coal Co. v. Stroff, 200 Ill. 483, p. 487;

Donk Bros. Coal Co. v. Stroff, 100 Ill. App. 576, p. 581, affirmed;

Western Anthracite Coal & Coke Co. v. Beaver, 95 Ill. App. 95, p. 96;

Cartersville Coal Co. v. Abbott, 81 Ill. App. 279, affirmed;

Willis Coal Min. Co. v. Grizzell, 100 Ill. App. 480, p. 484;

Sunnyside Coal Co. v. Center, 100 Ill. App. 546, p. 547;

Kirchener v. Schoal Creek Coal Co., 162 Ill. App. 52, p. 54;

Kilduff v. Consolidated Coal Co., 164 Ill. App. 194, p. 197;

Mortens v. Southern Coal Min. Co., 235 Ill. 540, p. 548.

See Kellyville Coal Co. v. Strine, 117 Ill. App. 115, p. 124.

In an action under this statute for damages for the death of a miner caused by the failure of the mine operator to comply with the statute, the contributory negligence on the part of the engineer in the management of the engine cannot affect the right of recovery.

Beard v. Skeldon, 13 Ill. App. 54, p. 62.

A wilful disregard by the owner or operator of a coal mine of the duties imposed by this statute is a wilful exposure to injury of the miners employed and is an act of negligence of so gross a character and such an utter disregard of law that the question of contributory negligence, merely, has no place in the case as relieving such owner or operator from liability for an injury which has resulted solely from the fact of such negligence.

Cartersville Coal Co. v. Abbott, 181 Ill. 495, p. 502;

Pawnee Coal Co. v. Royce, 184 Ill. 402, p. 415;

Western Anthracite Coal & Coke Co. v. Beaver, 192, Ill. 333, p. 337;

Spring Valley Co. v. Rowatt, 196 Ill. 156, p. 160;

Kellyville Coal Co. v. Strine, 217 Ill. 516, p. 523;

Davis v. Illinois Collieries Co., 232 Ill. 284, p. 290;

Cartersville Coal Co. v. Abbott, 81 Ill. App. 279, affirmed;

Western Anthracite Coal & Coke Co. v. Beaver, 95 Ill. App. 95, p. 96;

Willis Coal Min. Co. v. Grizzell, 100 Ill. App. 480, p. 484;

Sunnyside Coal Co. v. Center, 100 Ill. App. 546, p. 547.

Athens Min. Co. v. Carnduff, 123 Ill. App. 178, p. 186;

Kirchener v. Schoal Creek Coal Co., 162 Ill. App. 52, p. 54;

Kilduff v. Consolidated Coal Co., 164 Ill. App. 194, p. 197.

See Taylor Coal Co. v. Dawes, 220 Ill. 145, p. 148;

Odin Coal Co. v. Denman, 185 Ill. 413, p. 418.

25. ASSUMPTION OF RISK—KNOWLEDGE OF DANGER.

Where the operator employs a timberman to do his work and employs the miners, loaders, engineers and others to do theirs respectively, he expects each will do his own without negligence, but he does not by any means guarantee or assume in favor of the others that each should so do. Each miner assumes all the risk of injury through the negligence of his fellow miners, and the employment of a timberman is not an exception.

Consolidated Coal Co. v. Scheller, 42 Ill. App. 630, p. 637.

See Throughgear v. Lower Vein Coal Co., 62 Iowa 576;

Hall v. Johnson, L. J. Ex. 222.

A coal mine operator is not bound to give a miner notice of the ordinary dangers pertaining to the particular service, for the reason that all persons engaged in it are presumed to know them; and the dangers of parts of the roof of a mine being or becoming loose and falling is among such dangers. And a miner cannot complain of want of such notice in any event where he had actual knowledge of the dangerous place in the roof.

Consolidated Coal Co. v. Scheller, 42 Ill. App. 630, p. 639.

26. STATUTE NOT ABROGATED BY CONTRACT.

It is against public policy to permit the provisions of the statute made for the protection of miners to be dispensed with by contract of employment between a coal mine operator and the miner by which, even for a consideration, the miner consented or agreed to waive any right of action for damages for injuries that might occur to him by reason of the failure of the operator to comply with the statute. But a miner injured by reason of the failure of the mine operator to comply with the statute may, for a consideration, settle and compromise his claim and on receipt of the amount agreed upon, release the mine operator from further liability.

Chicago, etc., Coal Co. v. Peterson, 39 Ill. App. 114, p. 119.

27. VICE PRINCIPAL OR AGENT—DUTIES—RIGHT TO RECOVER.

An agent or a person in the position of a vice principal employed by the owner to operate a coal mine and given full authority in the mining of coal and furnished with the necessary means and given opportunity for providing the appliances required by the statute, cannot maintain an action for his own dereliction of duty, as a party cannot be heard to allege his own illegal act and demand a recovery against another.

Beaucoup Coal Co. v. Cooper, 12 Ill. App. 373, p. 379.

Under the provisions of section 6 of this act requiring the owner, agent or operator at every coal mine operated by shaft to provide sufficient means for lowering or hoisting persons in a cage, an action cannot be maintained for the death of a pit boss who had charge of the mine and who represented the owner and had full charge of the mining of coal and the hoisting apparatus, and whose duty it was to see that the cages were properly provided with the appliances required by the statute, and who was furnished with the necessary means by the mine owner and had ample time and opportunity to provide the required appliances.

Beaucoup Coal Co. v. Cooper 12 Ill. App. 373, p. 375.

28. ACTION FOR DEATH—WHO MAY SUE—SINGLE RECOVERY.

Section 44 gives the widow of a deceased miner a right of action only in the event that the death of her husband was occasioned by the wilful failure of a mine owner or operator to comply with the provisions of the statute, or by a wilful violation of the statute. But if the death was caused by some mere negligence or default of a mine owner or operator, not wilful in its character, the right of recovery would not be in the widow, but in an administrator suing under a different statute.

Springside Coal Min. Co. v. Grogan, 53 Ill. App. 60, p. 63;
 Consolidated Coal Co. v. Parson, 66 Ill. App. 434, p. 438;
 Girard Coal Co. v. Wiggins, 52 Ill. App. 69;
 Missouri & Illinois Coal Co. v. Schwalb, 74 Ill. App. 567;
 Kellyville Coal Co. v. Hill, 87 Ill. App. 424;
 Himrod Coal Co. v. Schroath, 91 Ill. App. 234, p. 238.
 See Consolidated Coal Co. v. Schieber, 65 Ill. App. 304.

Under this statute the widow is the proper person to maintain an action for the death of her husband, a coal miner. The general statute of 1874 did not repeal by implication the section giving the widow the authority to maintain an action for the death of her husband. The act in relation to miners is special and must control as to all cases especially enumerated in the act itself.

Litchfield Coal Co. v. Taylor, 81 Ill. 590;
 Collins Coal Co. v. Hadley, 38 Ind. App. 637, p. 651.

The general statute authorizing the personal representative to sue for a death caused by the wrongful act, neglect or default of another, does not take the place of and does not supersede this particular statute and does not make proper or admissible evidence of the pecuniary circumstances of the widow and next of kin.

Beard v. Skeldon, 13 Ill. App. 54, p. 60;
 Consolidated Coal Co. v. Yung, 24 Ill. App. 255, p. 257.

This statute contemplates the recovery of damages sustained by a widow, the lineal heirs, adopted children and others dependent upon the deceased for support, but it gives one action only. It provides that "a right of action" shall accrue to the widow of the person killed, his lineal heirs or adopted children, or to any other person or persons dependent upon him for support. But one right of action only is created and that right may be availed by any one of several persons or class of persons. The right is given in the alternative and when one suit is brought by a person entitled to bring it, all damages recoverable for the death of a deceased must necessarily be recovered in the action.

Beard v. Skeldon, 13 Ill. App. 54, p. 59.
 See Broad Top R. Co. v. Decker, 84 Pa. St. 419.

This statute is not a penal statute and the recovery awarded is not a penalty in the nature of a fine or forfeiture nor is it awarded as a punishment, but is confined by its expressed terms to the direct damages sustained by a miner by reason of the omission or failure on the part of the operator or owner and of which complaint is made. Compensation for injuries inflicted is the ground of recovery and not punishment even for a wilful violation of the statute.

Olin Coal Co. v. Denman, 185 Ill. 413, p. 417;
 Olin Coal Co. v. Denman, 84 Ill. App. 190.

This statute authorizes but one action and but one recovery for the entire loss resulting from the wrongful or negligent death of a miner. The widow of a deceased miner is entitled to sue and recover for the loss, but if there is no widow, provision is made for a suit by other persons, and in the absence of a

widow or lineal heirs, then any person may maintain an action who, before the death of the intestate, was dependent upon him for support.

Beard v. Skeldon, 113 Ill. 586;

Willis Coal & Min. Co. v. Grizzell, 198 Ill. 313, p. 316;

Kulvie v. Bunsen Coal Co., 253 Ill. 386, p. 388;

Kellyville Coal Co. v. Bruzas, 125 Ill. App. 464, p. 468.

See Consolidated Coal Co. v. Maehl, 130 Ill. 551;

Hart v. Penwell Coal Min. Co., 146 Ill. App. 155, p. 156;

McFadden v. St. Paul Coal Co., 183 Ill. App. 36, p. 40.

Under this statute a mother of a non-resident alien may sue for damages for the death of her son caused by a wilful failure of the operator of a coal mine to comply with the statute in that the operator failed to furnish props to support the roof and failed to cause a daily inspection of the mine and permitted the deceased miner to enter the room and work when no inspection had been made for three days. But the evidence must show that the mother was dependent upon the son for her support.

Kellyville Coal & Coke Co. v. Petraytis, 95 Ill. App. 635, p. 636.

While the statute fails to make any express provision as to the distribution of the moneys recovered in an action under this statute for the death of a miner, yet as it creates a right of action for the recovery of damages sustained by the several persons mentioned, the implication would seem to be unavoidable that the damages so recovered are subject to distribution among the several beneficiaries according to their respective rights. And in an action by the widow of a deceased miner evidence that the deceased left children surviving him is admissible; but evidence as to the pecuniary circumstances of the widow and children either at the time of the death of the miner or at the time of the trial, is not admissible.

Beard v. Skeldon, 13 Ill. App. 54, p. 60.

29. PURPOSE OF SURVEY.

Under this statute a land owner or mine operator may by petition to the judge of the proper circuit court have a survey and examination made of his mine or premises by some competent person to be appointed by the judge of the court to ascertain if a mine was being worked on the premises of the petitioner.

Monmouth Min., etc., Co. v. Regmier, 49 Ill. App. 385, p. 387.

Section 2 of the statute simply gives legal authority to make the survey provided for and to go into the mine owner's premises while otherwise it would be a trespass and it is in the nature of a search warrant. The statute requires no record to be made of the survey, nor that a plat thereof and report be made in writing, or report made to the circuit judge or court, and the report is not admissible in evidence. The duties of the circuit judge end upon the appointment of the surveyor unless it be necessary to proceed against him for non-performance of duty by way of contempt of court.

Monmouth Min., etc., Co. v. Regmier, 49 Ill. App. 385, p. 387.

One object of section 2 is to obtain evidence as to whether mining operations are being carried on by one operator under or on the premises of another. When this object is obtained the duties of the surveyor or appointee of the court ceases. The surveyor may be a witness and make a plat explanatory of his survey and a party may introduce it in evidence in connection with an oath of a witness describing its accuracy; but the plat itself without proof, much less a report by the surveyor, is not admissible.

Monmouth Min., etc., Co. v. Regmier, 49 Ill. App. 385, p. 386.

30. MINING UNDER SURFACE—DAMAGES.

In an action by a land or mine owner against another mine owner or operator for damages for mining under the surface of the land there can be no recovery of damages for causing a well on the complainant's land to dry up and become worthless where it appeared that the excavation was some 90 feet from the surface and the well was only about 35 feet deep and where another well and a pond were not affected by the mining operations and where subsequently through a dry spell the complainant's well had a supply of water.

Monmouth Min., etc., Co. v. Regnier, 49 Ill. App. 385, p. 388.

31. REPEALING EFFECT.

This act repealed all of the act of 1877 on the same subject except such portions as were retained and kept in force by the proviso to section 3.

Hamilton v. State, 102 Ill. 367, p. 369.

MINING OPERATIONS.

SECOND GENERAL REVISION, 1899.

LAWS 1899, P. 301.

APRIL 18, 1899.

AN ACT to revise the laws in relation to coal mines and subjects relating thereto, and providing for the health and safety of persons employed therein.

MAPS OR PLANS OF MINES.

SECTION 1. Be it enacted, etc.:

MAPS NECESSARY.—(a) That the operator of every coal mine in the State shall make, or cause to be made, an accurate map or plan of such mine, drawn to a scale not smaller than 200 feet to the inch, and as much larger as practicable, on which shall appear the name of the State, county and township in which the mine is located, the designation of the mine, the name of the company or owner, the certificate of the mining engineer or surveyor as to the accuracy and date of the survey, the north point and the scale to which the drawing is made.

SURFACE SURVEY.—(b) Every such map or plan shall correctly show the surface boundary lines of the coal rights pertaining to each mine, and all sections or quarter section lines or corners within the same; the lines of town lots and streets; the tracks and side tracks of all railroads, and the location of all wagon roads, rivers, streams, ponds, buildings, landmarks and principal objects on the surface.

UNDERGROUND SURVEY.—(c) For the underground workings said maps shall show all shafts, slopes, tunnels or other openings to the surface or to the workings of a contiguous mine; all excavations, entries, rooms and cross-cuts; the location of the fan or furnace and the direction of the air currents; the location of pumps, hauling engines, engine planes, abandoned works, fire walls and standing water; and the boundary line of any surface outcrop of the seam.

MAP FOR EVERY SEAM.—(d) A separate and similar map, drawn to the same scale in all cases, shall be made of each and every seam, which, after the passage of this Act, shall be worked in any mine, and the maps of all such seams shall show all shafts, inclined planes or other passageways connecting the same.

SEPARATE MAP FOR THE SURFACE.—(e) A separate map shall also be made of the surface whenever the surface buildings, lines or objects are so numerous as to obscure the details of the mine workings if drawn upon the same sheet with them, and in such case the surface map shall be drawn on transparent cloth or paper, so that it can be laid upon the map of the underground workings, and thus truly indicate the local relation of lines and objects on the surface to the excavations of the mine.

THE DIP.—(f) Each map shall also show by profile drawing and measurements, in feet and decimals thereof, the rise and dip of the seam from the bottom of the shaft in either direction to the face of the workings.

COPIES FOR INSPECTORS AND RECORDERS.—(g) The original or true copies of all such maps shall be kept in the office at the mine, and true copies thereof shall also be furnished to the State Inspector of Mines for the district in which said mine is located, and shall be filed in the office of the recorder of the county in

which the mine is located, within thirty days after the completion of the same. The map so delivered to the inspector shall be the property of the State, and shall remain in the custody of said inspector during his term of office, and be delivered by him to his successor in office; they shall be kept at the office of the inspector, and be open to the examination of all persons interested in the same, but such examination shall only be made in the presence of the inspector, and he shall not permit any copies of the same to be made without the written consent of the operator or the owner of the property.

ANNUAL SURVEYS.—(h) An extension of the last preceding survey of every mine in active operation shall be made once in every twelve months prior to July 1 of every year, and the results of said survey, with the date thereof, shall be promptly and accurately entered upon the original maps and all copies of the same, so as to show all changes in plan or new work in the mine, and all extensions of the old workings to the most advanced face or boundary of said workings, which have been made since the last preceding survey. The said changes and extensions shall be entered upon the copies of the maps in the hands of the said inspector and recorder, within thirty days after the last survey is made.

ABANDONED MINES.—(i) When any coal mine is worked out or is about to be abandoned or indefinitely closed, the operator of the same shall make or cause to be made a final survey of all parts of such mine, and the results of the same shall be duly extended on all maps of the mine and copies thereof, so as to show all excavations and the most advanced workings of the mine and their exact relation to the boundary or section lines on the surface.

SPECIAL SURVEY.—(j) The State Inspector of Mines may order a survey to be made of the workings of any mine, and the results to be extended on the maps of the same and the copies thereof, whenever, in his judgment, the safety of the workmen, the support of the surface, the conservation of the property or the safety of an adjoining mine require it.

PENALTIES FOR FAILURE.—(k) Whenever the operator of any mine shall neglect or refuse, or, for any cause not satisfactory to the mine inspector, fail, for the period of three months, to furnish to said inspector and recorder, the map or plan of such mine or a copy thereof, or of the extensions thereto, as provided for in this Act, such operator shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not more than one hundred dollars, and shall stand committed to the county jail until such fine is fully paid and in addition thereto, the inspector is hereby authorized to make or cause to be made an accurate map or plan of such mine at the expense of the owner thereof; and the costs of the same may be recovered by law from the operator in the same manner as other debts by suit; in the name of the inspector and for his use, and a copy of the same shall be filed by him with said recorder. (Amended. See page 207.)

THE MAIN SHAFT.

SEC. 2. SINKING SUBJECT TO INSPECTION.—(a) Any shaft in process of sinking, and any opening projected for the purpose of mining coal, shall be subject to the inspection of the State Inspector of Mines for the district in which said shaft or opening is located.

PASSAGEWAY AROUND THE BOTTOM.—(b) At the bottom of every shaft and at every caving place therein, a safe and commodious passageway must be cut around said landing place to serve as a traveling way by which men or animals may pass from one side of the shaft to the other without passing under or on the cage.

GATES AT THE TOP.—(c) The upper and lower landings at the top of each shaft, and the opening of each intermediate seam from or to the shaft, shall be kept clear and free from loose materials, and shall be securely fenced with automatic or other gates, so as to prevent either men or materials from falling into the shaft.

GENERAL EQUIPMENT.—(d) Every hoisting shaft must be equipped with substantial cages fitted to guide-rails running from the top to the bottom. Said cages must be safely constructed; they must be furnished with suitable boiler-iron covers to protect persons riding thereon from falling objects; they must be equipped with safety catches. Every cage on which persons are carried must be fitted up with iron bars or rings in proper place and sufficient number to furnish a secure hand hold for every person permitted to ride thereon. At the top landing cage supports, where necessary, must be carefully set and adjusted so as to act automatically and securely hold the cage when at rest.

THE ESCAPEMENT SHAFT.

SEC. 3. TWO PLACES OF EGRESS.—(a) For every coal mine in this State, whether worked by shaft, slope or drift, there shall be provided and maintained, in addition to the hoisting shaft, or other place of delivery, a separate escapement shaft or opening to the surface, or an underground communicating passageway between every such mine and some other contiguous mine, such as shall constitute two distinct and available means of egress to all persons employed in such coal mine.

The time allowed for completing such escapement shaft or making such connections with an adjacent mine, as is required by the terms of this Act, shall be three months for shafts 200 feet or less in depth, and six months for shafts less than 500 feet and more than 200 feet, and nine months for all other mines, slopes or drifts or connections with adjacent mines. The time to date in all cases from the hoisting of coal from the main shaft.

UNLAWFUL TO EMPLOY MORE THAN TEN MEN.—(b) It shall be unlawful to employ, at any one time, more men than in the judgment of the inspector is absolutely necessary for speedily completing the connections with the escapement shaft or adjacent mine; and said number must not exceed ten men at any one time for any purpose in said mine until such escapement or connection is completed.

PASSAGEWAYS TO ESCAPEMENT.—(c) Such escapement shaft or opening or communication with a contiguous mine as aforesaid, shall be constructed in connection with every seam of coal worked in such mine, and all passageways communicating with the escapement shaft or place of exit, from the main hauling ways to said place of exit, shall be maintained free of obstruction at least five feet high and five feet wide. Such passageways must be so graded and drained that it will be impossible for water to accumulate in any depression or dip of the same, in quantities sufficient to obstruct the free and safe passage of men. At all points where the passageway to the escapement shaft, or other place of exit, is intersected by other roadways or entries, conspicuous signboards shall be placed, indicating the direction it is necessary to take in order to reach such place of exit.

DISTANCE FROM THE SHAFT.—(d) Every escapement shaft shall be separated from the main shaft by such extent of natural strata as may be agreed upon by the inspector of the district and the owner of the property, but the distance between the main shaft and escapement shaft shall not be less than 300 feet without the consent of the inspector, nor more than 300 feet without the consent of the owner.

BUILDINGS ON THE SURFACE.—(e) It shall be unlawful to erect any inflammable structure or building in the space intervening between the main shaft and the escapement shaft on the surface, or any powder magazine in such location or manner as to jeopardize the free and safe exit of the men from the mine, by said escapement shaft, in case of fire in the main shaft building.

STAIRWAYS OR CAGES.—(f) The escapement shaft at every mine shall be equipped with safe and ready means for the prompt removal of men from the mine in time of danger, and such means shall be a substantial stairway, set at an angle not greater than forty-five degrees, which shall be provided with handrails and with platforms or landings at each turn of the stairway.

In any escapement shaft which may, at the time of the passage of this Act, be equipped with a cage for hoisting men, such cage must be suspended between guides and be so constructed that falling objects cannot strike persons being hoisted upon it. Such cage must also be operated by a steam hoisting engine, which shall be kept available for use at all times, and the equipment of said hoisting apparatus shall include a depth indicator, a brake on the drum, a steel or iron cable and safety catches on the cage.

OBSTRUCTIONS IN SHAFT.—(g) No accumulation of ice, nor obstructions of any kind shall be permitted in any escapement shaft, nor shall any steam, or heated or vitiated air be discharged into said shaft; and all surface or other water which flows therein shall be conducted, by rings or otherwise, or receptacles for the same, so as to keep the stairway free from falling water.

WEEKLY INSPECTION.—(h) All escapement shafts and the passageways leading thereto, or to the works of a contiguous mine, must be carefully examined at least once a week by the mine manager, or a man specially delegated by him for that purpose, and the date and findings of such inspection must be daily entered in the record book in the offices at the mine. If obstructions are found, their location and nature must be stated together with the date at which they are removed.

COMMUNICATION WITH ADJACENT MINE.—(i) When operators of adjacent mines have, by agreement, established underground communication between said mines, as an escapement outlet for the men employed in both, the roadways to the boundary on either side shall be regularly patrolled and kept clear of every obstruction to travel by the respective operators, and the intervening doors shall remain unlocked and ready at all times for immediate use.

When such communication has once been established between contiguous mines, it shall be unlawful for the operator of either mine to close the same without the consent both of the contiguous operator and of the State Inspector for the district: Provided, that when either operator desires to abandon mining operations, the expense and duty of maintaining such communication shall devolve upon the party continuing operations and using the same.

THE ENGINE AND BOILER HOUSE.

SEC. 4. LOCATION.—(a) Any building erected after the passage of this Act, for the purpose of housing the hoisting engine or boilers at any shaft, shall be substantially fire-proof, and no boiler house shall be nearer than sixty feet to the main shaft or opening, or to any building or inflammable structure connecting therewith.

BRAKE OR DRUM.—(b) Every hoisting engine shall be provided with a good and sufficient brake on the drum, so adjusted that it may be operated by the engineer without leaving his post at the levers.

FLANGES.—(c) Flanges shall be attached to the sides of the drum of any engine used for hoisting men, with a clearance of not less than four inches when the whole rope is wound on the drum.

CABLE FASTENINGS.—(d) The ends of the hoisting cables shall be well secured on the drum, and at least two and a half laps of the same shall remain on the drum when the cage is at rest at the lowest caging place in the shaft.

INDICATOR.—(e) An index dial or indicator, to show at all times the true position of the cages in the shaft, shall be attached to every hoisting engine for the constant information and guidance of the engineer.

SIGNALS.—(f) The code of signals, as provided for in this Act, shall be displayed in conspicuous letters at some point in front of the engineer when standing at his post.

GAUGES.—(g) Every boiler shall be provided with a steam gauge, except where two or more boilers are equipped and connected with a steam drum, properly connected with the boilers to indicate the steam pressure, and another steam gauge shall be attached to the steam pipe in the engine house, the two to be placed in such positions that both the engineer and fireman can readily see what pressure is being carried. Such steam gauges shall be kept in good order and adjusted and be tested as often at least as every six months.

SAFETY VALVES.—(h) Every boiler or battery of boilers shall be provided with a safety valve of sufficient area for the escape of steam, and with weights and springs properly adjusted.

INSPECTION OF BOILERS.—(i) All boilers used in generating steam in and about coal mines shall be kept in good order, and the operator of every coal mine where steam boilers are in use shall have said boilers thoroughly examined and inspected by a competent boiler maker or other qualified person, not an employe of said operator, as often as once in every six months, and oftener if the inspector shall deem it necessary, and the result of every such inspection shall be reported on suitable blanks to said inspector.

THE POWDER HOUSE.

SEC. 5. All blasting powder and explosive materials must be stored in a fire-proof building on the surface, located at a safe distance from all other buildings.

NOTE.—Sections 6, 7, 8, 9, and 10 are under the subject, Miner's Examining Board, page 62.

SEC. 11. BOUNDARIES DEFINED.—(a) The State shall be divided into seven inspection districts, as follows:

The first district shall be composed of the counties of Boone, McHenry, Lake, DeKalb, Kane, DuPage, Cook, LaSalle, Kendall, Grundy, Will, Livingston, and Kankakee.

The second district shall be composed of the counties of Jo Daviess, Stephenson, Winnebago, Carroll, Ogle, Whiteside, Lee, Rock Island, Henry, Bureau, Mercer, Stark, Putnam, Marshall, Peoria, and Woodford.

The third district shall be composed of the counties of Henderson, Warren, Knox, Hancock, McDonough, Schuyler, Fulton, Adams, and Brown.

The fourth district shall be composed of the counties of Tazewell, McLean, Ford, Iroquois, Vermilion, Champaign, Piatt, DeWitt, Macon, Logan, Menard, Mason, and Cass.

The fifth district shall be composed of the counties of Pike, Scott, Morgan, Sangamon, Christian, Shelby, Moultrie, Douglas, Coles, Cumberland, Clark, Edgar, Montgomery, Macoupin, Greene, Jersey, and Calhoun.

The sixth district shall be composed of the counties of Monroe, St. Clair, Madison, Bond, Clinton, Fayette, Marion, Effingham, Clay, Jasper, Richland, Crawford, and Lawrence.

The seventh district shall be composed of the counties of Washington, Jefferson, Wayne, Edwards, Wabash, White, Hamilton, Franklin, Perry, Randolph, Jackson, Williamson, Saline, Gallatin, Hardin, Pope, Johnson, Massac, Union, Alexander, and Pulaski.

How CHANGES MAY BE MADE.—(b) Provided, that the Commissioners of Labor, may, from time to time, make such changes in the boundaries of said districts as may, in their judgment, be required in order to distribute more evenly the labors and expenses of the several inspectors of mines, but this provision shall not be construed as authorizing the board to increase the number of districts.

SEC. 12. BOND.—(a) Those who receive appointment as State inspectors of mines must, before entering upon their duties as such, take an oath of office, as provided for by the constitution, and enter into a bond to the State in the sum of five thousand (\$5,000) dollars, with sureties to be approved by the Governor, conditioned upon the faithful performance of their duties in every particular as required by this Act; said bond, with the approval of the Governor endorsed thereon, together with the oath of office, shall be deposited with the Secretary of State.

INSTRUMENTS.—(b) For the more efficient discharge of the duties herein imposed upon them, each inspector shall be furnished at the expense of the State with an anemometer, a safety lamp and whatever other instruments may be required in order to carry into effect the provisions of this Act.

EXAMINATIONS OF MINES.—(c) State Inspectors of mines shall devote their whole time and attention to the duties of their office, and make personal examination of every mine within their respective districts, and shall see that every necessary precaution is taken to insure the health and safety of the workmen employed in such mines, and that the provisions and requirements of all the mining laws of this State are faithfully observed and obeyed, and the penalties for the violation of the same promptly enforced.

AUTHORITY TO ENTER.—(d) It shall be lawful for State inspectors to enter, examine and inspect any and all coal mines and the machinery belonging thereto, at all reasonable times, by day or by night, but so as not to obstruct or hinder the necessary workings of such coal mine, and the operator of every such coal mine is hereby required to furnish all necessary facilities for making such examination and inspection.

PROCEDURE IN CASE OF OBJECTION.—(e) If any operator shall refuse to permit such inspection or to furnish the necessary facilities for making such examination and inspection, the inspector shall file his affidavit, setting forth such refusal, with the judge of the circuit court in said county in which said mine is situated, either in term time or vacation, or, in the absence of said judge, with the clerk in chancery in said county in which said mine is situated, and obtain an order on such owner, agent or operator so refusing as aforesaid, commanding him to permit and furnish such necessary facilities for the inspection of such coal mine, or to be adjudged to stand in contempt of court and punished accordingly.

NOTICES TO BE POSTED.—(f) The State inspector of mines shall post up in some conspicuous place at the top of each mine visited and inspected by him, a plain statement of the condition of said mine, showing what in his judgment is necessary for the better protection of the lives and health of persons employed in said mine; such statement shall give the date of inspection and be signed by the inspector. He shall also post a notice at the landing used by the men, stating what number of men will be permitted to ride on the cage at one time, and what rate of speed men may be hoisted and lowered on the cages. He must observe especially that a proper code of signals between the

engineer and top man and bottom man is established and conspicuously posted for the information of all employés.

NOTE.—Sections (g) and (h) are under the appropriate title, page 49.

INSPECTORS' ANNUAL REPORTS.—(i) Each State inspector of mines shall, at the close of the official year, to-wit: after June 30, of every year, prepare and forward to the secretary of the Bureau of Labor Statistics a formal report of his acts during the year in the discharge of his duties, with any recommendations as to legislation he may deem necessary on the subject of mining, and shall collect and tabulate upon blanks furnished by said secretary all desired statistics of mines and miners within his district to accompany said annual report.

REPORTS TO BE PUBLISHED.—(j) On the receipt of said inspectors' reports the secretary of the Bureau of Labor Statistics shall proceed to compile and summarize the same as a report of said bureau, to be known as the Annual Coal Report, which shall be duly transmitted to the Governor for the information of the General Assembly and the public. The printing and binding of said reports shall be provided for by the Commissioners of State Contracts in like manner and in like number as they provide for the publication of other official reports to the Governor.

The Secretary of State shall furnish to said inspectors, upon the requisition of the secretary of the State Bureau of Labor Statistics, whatever instruments, blanks, blank books, stationery, printing and supplies may be required by said inspectors in the discharge of their official duties; said instruments to be paid for on bills of particulars, certified by the Secretary of State and approved by the Governor.

It shall be the duty of every coal operator and every employer of labor in this State to afford to the State Commissioners of Labor, or their representatives, every facility for procuring statistics of the wages and conditions of their employes for the purpose of compiling and publishing statistics of labor and of social and industrial conditions within the State as required by law. Any person who shall hinder or obstruct the investigation of the agents of the commissioners, or shall neglect or refuse, for a period of ten days, to furnish the information called for by the schedules of the commissioners as provided above, shall be adjudged guilty of a misdemeanor and be subjected to a fine of one hundred dollars.

SEC. 13. PAY OF INSPECTORS.—Each State Inspector of mines shall receive as compensation for his services the sum of \$1,800.00 per annum, and for his traveling expenses the sum actually expended for that purpose, in the discharge of his official duties, both to be paid quarterly by the State Treasurer, on warrants of the Auditor of Public Accounts, from the funds in the treasury not otherwise appropriated; said expense vouchers shall show the items of expenditures in detail, with sub-vouchers for the same so far as it is practicable to obtain them. Said vouchers shall be sworn to by the inspector and be approved by the Secretary of the Bureau of Labor Statistics and the Governor.

SEC. 14. REMOVAL OF INSPECTORS.—Upon a petition signed by not less than three coal operators, or ten coal miners, setting forth that any State inspector of mines neglects his duties, or that he is incompetent, or that he is guilty of malfeasance in office, or guilty of any act tending to the injury of miners or operators of mines, it will be lawful for the Commissioners of Labor of this State to issue a citation to the said inspector to appear, at not less than fifteen days' notice on a day fixed, before them, when the said commissioners shall proceed to inquire into and investigate the allegations of the petitioners; and

If the said commissioners find that the said inspector is neglectful of his duty, or that he is incompetent to perform the duties of said office, or that he is guilty of malfeasance in office, or guilty of any act tending to the injury of miners or operators of mines, the said commissioners shall declare the office of inspector of said district vacant, and a properly qualified person shall be duly appointed, in the manner provided for in this act, to fill said vacancy.

SEC. 15. COUNTY INSPECTORS.—The county board of supervisors, or of commissioners in counties not under township organization, of any county in which coal is produced, upon the written request of the State inspector of mines for the district in which said county is located, shall appoint a county inspector of mines as assistant to such State inspector; but no person shall be eligible for appointment as county inspector who does not hold a State certificate of competency as mine manager, and the compensation of such county inspector shall be fixed by the county board at not less than \$3.00 per day, to be paid out of the county treasury.

The State inspector may authorize any county inspector in his district to assume and discharge all the duties and exercise all the powers of a State inspector in the county for which he is appointed, in the absence of the State inspector; but such authority must be conferred in writing and the county inspector must produce the same as evidence of his powers upon the demand of any person affected by his acts; and the bond of said State inspector shall be holden for the faithful performance of the duties of such assistant inspector.

SEC. 16. DUTIES OF MINE MANAGERS AND MINERS.—(a) The mine managers shall instruct employes as to their respective duties, and shall visit and examine the various working places in the mines as often as practicable. He shall always provide a sufficient supply of props, caps and timber delivered on the miners' cars at the usual place when demanded, as nearly as possible, in suitable lengths and dimensions for the securing of the roof by the miners, and it shall be the duty of the miner to properly prop and secure his place with materials provided therefor.

VENTILATION.—(b) It shall be the duty of the mine manager to see that cross cuts are made at proper distances apart to secure the best ventilation at the face of all working places, and that all stoppings along air-ways are properly and promptly built. He shall keep careful watch over all ventilating apparatus and the air-currents in the mine, and in case of accident to fan or machinery by which the currents are obstructed or stopped, he shall at once order the withdrawal of the men and prohibit their return until thorough ventilation has been re-established.

AIR-CURRENTS AND OUTLET PASSAGE-WAYS.—(c) He shall measure or cause to be measured the air-current with an anemometer at least once a week at the inlet and outlet, and shall keep a record of such measurements for the information of the inspector. Once a week he shall make a special examination of the roadways leading to the escapement shaft or other opening for the safe exit of men to the surface, and shall make a record of any obstructions to travel he may encounter therein, together with the date of their removal.

HANDLING EXPLOSIVES.—(d) He shall give special attention to and instructions concerning the proper storage and handling of explosives in the mine, and concerning the time and manner of placing and discharging the blasting shots, and it shall be unlawful for any miner to fire shots except according to the rules of the mine. In dusty mines he must see that all hauling roads are frequently and thoroughly sprinkled. He must also see that all dangerous places above and below are properly marked, and that danger signals are displayed wherever they are required.

CARE OF ROPES, CAGES, ETC.—(e) The mine manager or superintendent must have special attention given to the condition of the hoisting ropes; they must be carefully and frequently scrutinized. Before the men are lowered in the morning the soundness of the ropes must be tested by hoisting the cages. He must also have the cages, safety catches, pumps, sumps and stables examined frequently; he must have the mine examined every morning by the mine examiner before the men are allowed to go to work, and know that the top man and bottom man are on duty, and that sufficient lights are maintained at the top and bottom landings when the men are being hoisted and lowered.

EARLY AND LATE DUTY.—(f) The mine manager or his agent shall be at his post at the mine when the men are lowered into the mine in the morning for work; he shall by some device keep a record of the number of men lowered either for a day or night shift, and he or his agent shall remain at night until all the men employed during the day shall have been hoisted out.

MAY HAVE ASSISTANTS.—(g) In mines in which the works are so extensive that all the duties devolving on the mine manager can not be discharged by one man, competent persons may be designated and appointed as assistants to the mine manager who shall exercise his functions, under his instructions.

DUTIES OF HOISTING ENGINEERS.

SEC. 17. CONSTANT ATTENDANCE.—(a) The hoisting engineer at any mine shall be in constant attendance at his engine or boilers at all times when there are workmen underground.

OUTSIDERS EXCLUDED.—(b) The engineer shall not permit any one to enter or to loiter in the engine room, except those authorized by their position or duties to do so, and he shall hold no conversation with any officer of the company or other person while the engine is in motion or while his attention is occupied with the signals. A notice to this effect shall be posted on the door of the engine house.

CARE OF ENGINE AND BOILERS.—(c) The engineer or some other properly authorized employé must keep a careful watch over the engine, boilers, pumps, ropes and winding apparatus. He must see that his boilers are properly supplied with water, cleaned and inspected at frequent intervals, and that the steam pressure does not exceed the limit established by the boiler inspector; he shall frequently try the safety valves and shall not increase the weights on the same; he shall observe that the steam and water gauges are always in good order, and if any of the pumps, valves or gauges become deranged or fail to act he shall promptly report the fact to the proper authority.

SIGNALS.—(d) The engineer must thoroughly understand the established code of signals, and these must be delivered in the engineroom in a clear and unmistakable manner, and when he has the signal that the men are on the cage he must work his engine only at the rate of speed hereafter specified in this Act.

HANDLING OF ENGINES.—(e) The engineer shall permit no one to handle or meddle with any machinery under his charge, nor suffer any one who is not a certificated engineer to operate his engine, except for the purpose of learning to operate it, and then only in the presence of the engineer in charge, and when men are not on the cage.

DUTIES OF MINE EXAMINERS.

SEC. 18. TO ENTER AND EXAMINE ALL PLACES.—(a) A mine examiner shall be required at all mines. His duty shall be to visit the mine before the men are permitted to enter it, and, first, he shall see that the air-current is traveling in its proper course and in proper quantity. He shall then inspect all places

where men are expected to pass or to work and observe whether there are any recent falls or obstructions in rooms or roadways, or accumulations of gas or other unsafe conditions. He shall especially examine the edges and accessible parts of recent falls and old gobs and air-courses. As evidence of his examination of all working places he shall inscribe on the walls of each, with chalk, the month and the day of the month of his visit.

TO POST DANGER NOTICES.—(b) When working-places are discovered in which accumulations of gas, or recent falls, or any dangerous conditions exist, he shall place a conspicuous mark thereat as notice to all men to keep out, and at once report his finding to the mine manager. No one shall be allowed to remain in any part of the mine through which gas is being carried into the ventilating current, nor to enter the mine to work therein, except under the direction of the mine manager, until all conditions shall have been made safe.

TO MAKE DAILY RECORD.—(c) The mine examiner shall make a daily record of the conditions of the mine, as he has found it, in a book kept for that purpose, which shall be preserved in the office for the information of the company, the inspector and all other persons interested, and this record shall be made each morning before the miners are permitted to descend into the mine. (Amended. See pages 203, 205.)

VENTILATION.

SEC. 19. Throughout every coal mine there shall be maintained currents of fresh air sufficient for the health and safety of all men and animals employed therein, and such ventilation shall be produced by a fan, or some other artificial means.

AMOUNT OF AIR REQUIRED.—(a) The quantity of air required to be kept in circulation and passing a given point shall be not less than 100 cubic feet per minute for each person, and not less than 600 cubic feet per minute for each animal in the mine, measured at the foot of the downcast, and this quantity may be increased at the discretion of the inspector whenever, in his judgment, unusual conditions make a stronger current necessary. Said currents shall be forced into every working place throughout the mine, so that all parts of the mine shall be reasonably free from standing powder smoke and deleterious air of every kind.

MEASUREMENTS.—(b) The measurements of the currents of air shall be taken with an anemometer at the foot of the downcast, at the foot of the upcast, and at the working face of each division or split of the air current. And a record of such measurements shall be made and preserved in the office, as elsewhere provided for in this Act.

AIR CURRENTS TO BE SPLIT.—(c) The main current of air shall be so split or sub-divided as to give a separate current of reasonably pure air to every 100 men at work, and the inspector shall have authority to order separate currents for smaller groups of men, if, in his judgment, special conditions make it necessary.

VENTILATION OF STABLE.—(d) The air-current for ventilating the stable shall not pass into the intake air-current for ventilating the working parts of the mine.

SELF-CLOSING DOORS.—(e) All permanent doors in mines, used in guiding and directing the ventilating currents, shall be so hung and adjusted as to close automatically.

TRAPPERS.—(f) At all principal doorways, through which cars are hauled, an attendant shall be employed for the purpose of opening and closing said doors when trips of cars are passing to and from the workings. Places for shelter

shall be provided at such doorways to protect the attendants from being injured by the cars while attending to their duties. (Amended. See page 206.)

CROSS-CUTS.—(g) Cross-cuts shall be made not more than sixty feet apart, and no room shall be opened in advance of the air current.

STOPPINGS.—(h) When it becomes necessary to close cross-cuts connecting the inlet and outlet air-courses in mines generating dangerous gases, the stoppings shall be built in a substantial manner with brick or other suitable building material laid in mortar or cement, if practicable, but in no case shall they be built of lumber, except for temporary purposes.

AUTHORITY OF INSPECTOR.—(i) Whenever the inspector shall find men working without sufficient air, he shall at once give the mine manager or operator notice and a reasonable time in which to restore the current, and upon his or their refusal or neglect to act promptly, the inspector may order the endangered men out of the mine.

POWDER AND BLASTING.

SEC. 20. No blasting powder, or other explosives shall be stored in any coal mine and no workman shall have at any time more than one twenty-five pound keg of black powder in the mine nor more than three pounds of high explosives.

PLACE AND MANNER OF STORING.—(a) Every person who has powder or other explosives in a mine, shall keep it or them in a wooden or metallic box or boxes securely locked, and said boxes shall be kept at least ten feet from the track, and no two powder boxes shall be kept within fifty feet of each other, nor shall black powder and high explosives be kept in the same box.

MANNER OF HANDLING.—(b) Whenever a workman is about to open a box or keg containing powder or other explosive, and while handling the same, he shall place and keep his lamp at least five feet distant from said explosive, and in such position that the air current cannot convey sparks to it, and no person shall approach nearer than five feet to any open box containing powder or other explosive with a lighted lamp, lighted pipe or other thing containing fire.

COPPER TOOLS.—(c) In process of charging and tamping a hole, no person shall use any iron or steel pointed needle. The needle used in preparing a blast shall be made of copper and the tamping bar shall be tipped with at least five (5) inches of copper. No coal dust nor any material that is inflammable, or that may create a spark, shall be used for tamping, and some soft material must always be placed next to the cartridge or explosive.

USE OF SQUIBS.—(d) A miner who is about to explode a blast with a manufactured squib shall not shorten the match, saturate it with mineral oil nor ignite it except at the extreme end; he shall see that all persons are out of danger from the probable effects of such shot, and shall take measures to prevent anyone approaching, by shouting "fire!" immediately before lighting the fuse.

NOT MORE THAN ONE SHOT AT A TIME.—(e) Not more than one shot shall be ignited at the same time in any one working place, unless the firing is done by electricity or by fuses of such length that neither of the shots shall explode in less than three minutes from the time they are lighted. When successive shots are to be fired in any working place in which the roof is broken or faulty, the smoke must be allowed to clear away and the roof must be examined and made secure between shots.

MISSED SHOTS.—(f) No person shall return to a missed shot until five minutes shall have elapsed, unless the firing is done by electricity, and then only when the wires are disconnected from the battery.

DUSTY MINES.—(g) In case the galleries, roadways, or entries of any mine are so dry that the air becomes charged with dust, the operator of such mine

must have such roadways regularly and thoroughly sprayed, sprinkled or cleaned, and it shall be the duty of the inspector to see that all possible precautions are taken against the occurrence of explosions which may be occasioned or aggravated by the presence of dust. (Amended. See page 210.)

PLACES OF REFUGE.

SEC. 21. ENGINE PLANES.—(a) On all single track hauling roads wherever hauling is done by machinery and on all gravity or inclined planes, in mines, upon which the persons employed in the mine must travel on foot to and from their work, places of refuge must be cut in the side wall not less than three feet in depth and four feet wide, and not more than twenty yards apart, unless there is a clear space of at least three feet between the side of the car and the side of the road, which space shall be deemed sufficient for the safe passage of men. On every such road which is more than 100 feet in length, a code of signals shall be established between the hauling engineer and all points on the road. A conspicuous light must be carried on the front of every trip or train of pit cars moved by machinery, except when such trip is on an inclined plane.

MULE ROADS.—(b) On all hauling roads or gangways on which the hauling is done by draft animals, or gangways whereon men have to pass to and from their work, places of refuge must be cut in the side-wall at least two and a half feet deep, and not more than twenty yards apart; but such places shall not be required in entries from which rooms are driven at regular intervals not exceeding twenty yards, and wherever there is a clear space of two and one-half feet between the car and the rib, such space shall be deemed sufficient for the safe passage of men. All places of refuge must be kept clear of obstructions and no material shall be stored nor be allowed to accumulate therein. (Amended. Page 209.)

BOYS AND WOMEN.

SEC. 22. No boy under the age of fourteen years, and no woman or girl of any age shall be permitted to do any manual labor in or about any mine, and before any boy can be permitted to work in any mine he must produce to the mine manager or operator thereof an affidavit from his parent or guardian or next of kin, sworn and subscribed to before a justice of the peace or notary public, that he, the said boy, is fourteen years of age.

SEC. 23. At every mine operated by shaft and by steam power, means must be provided for communicating distinct and separate signals to and from the bottom man, the top man and the engineer. The following signals are prescribed for use at mines where signals are required:

FROM THE BOTTOM TO THE TOP.—One bell shall signify to hoist coal or the empty cage, and also to stop either when in motion.

Two bells shall signify to lower cage.

Three bells shall signify that men are coming up; when return signal is received from the engineer, men will get on the cage and the cager shall ring one bell to start.

Four bells shall signify to hoist slowly, implying danger.

Five bells shall signify accident in the mine and a call for a stretcher.

Six bells shall call for a reversal of the fan.

FROM THE TOP TO THE BOTTOM.—One bell shall signify: All ready, get on cage.

Two bells shall signify: Send away empty cage.

Provided, that the operator of any mine may, with the consent of the inspector, add to this code of signals in his discretion, for the purpose of increasing its efficiency or of promoting the safety of the men in said mine, but what-

ever code may be established and in use at any mine, must be conspicuously posted at the top and at the bottom and in the engine room for the information and instruction of all persons concerned.

NOTE.—Section 24 is under the appropriate title, Weighing Coal. See page 392.

BOUNDARIES.

SEC. 25. TEN-FOOT LIMIT.—(a) In no case shall the workings of any mine be driven nearer than 10 feet to the boundary line of the coal rights pertaining to said mine, except for the purpose of establishing an underground communication between contiguous mines, as provided for elsewhere in this Act.

APPROACHING OLD WORKS.—(b) Whenever the workings of any part of a mine are approaching old workings, believed to contain dangerous accumulations of water or of gas, the operator of said mine must conduct the advances with narrow work, and maintain bore holes at least 20 feet in advance of the face of the work, and such side holes as may be deemed prudent or necessary.

NOTICE TO INSPECTORS.

SEC. 26. Immediate notice must be conveyed to the inspector of the proper district by the operator interested:

First—Whenever an accident occurs whereby any person receives serious or fatal injury.

Second—Whenever it is intended to sink a shaft, either for hoisting or escapement purposes, or to open a new mine by any process.

Third—Whenever it is intended to abandon any mine or to reopen any abandoned mine.

Fourth—Upon the appearance of any large body of fire damp in any mine, whether accompanied by explosion or not, and upon the occurrence of any serious fire within the mine or on the surface.

Fifth—When the workings of any mine are approaching dangerously near any abandoned mine, believed to contain accumulations of water or of gas.

Sixth—Upon the accidental closing or intended abandonment of any passageway to an escapement outlet.

ACCIDENTS.

SEC. 27. DUTY OF INSPECTOR.—(a) Whenever loss of life or serious personal injury shall occur by reason of any explosion, or of any accident whatsoever, in or connected with any coal mine, it shall be the duty of the person having charge of said mine to report that fact, without delay, to the inspector of the district in which the mine is located, and the said inspector shall, if he deem necessary from the facts reported, and in all cases of loss of life, immediately go to the scene of said accident and render every possible assistance to those in need.

It shall moreover be the duty of every operator of a coal mine to make and preserve for the information of the inspector, and upon uniform blanks furnished by said inspector, a record of all injuries sustained by any of his employes in the pursuance of their regular occupations.

CORONERS' INQUEST.—(b) If any person is killed by any explosion, or other accident, the operator must also notify the coroner of the county, or in his absence or inability to act, any justice of the peace of said county, for the purpose of holding an inquest concerning the cause of such death. At such inquest the inspector shall offer such testimony as he may be possessed of, and may question or cross question any witness appearing in the case.

INVESTIGATION BY INSPECTOR.—(c) The inspector may also make any original or supplemental investigation which he may deem necessary, as to the nature and cause of any accident within his jurisdiction, and shall make a record of the circumstances attending the same, and of the result of his investigations, for preservation in the files of his office. To enable him to make such investigation he shall have the power to compel the attendance of witnesses, and to administer oaths or affirmations to them, and the cost of such investigations shall be paid by the county in which such accident has occurred, in the same manner as the costs of coroners' inquests are paid.

MEN ON CAGES.

SEC. 28. TOP MAN AND BOTTOM MAN.—(a) At every shaft operated by steam power, the operator must station at the top and at the bottom of such shaft a competent man, charged with the duty of attending to signals, preserving order and enforcing the rules governing the carriage of men on cages. Said top man and bottom man shall be at their respective posts of duty at least a half hour before the hoisting of coal begins in the morning, and remain for half an hour after hoisting ceases for the day.

LIGHTS ON LANDINGS.—(b) Whenever the hoisting or lowering of men occurs before daylight or after dark, or when the landing at which men take or leave the cage is at all obscured by steam or otherwise, there must always be maintained at such landing a light sufficient to show the landing and surrounding objects distinctly. Likewise, as long as there are men underground in any mine, the operator shall maintain a good and sufficient light at the bottom of the shaft thereof, so that persons coming to the bottom may clearly discern the cage and objects in the vicinity.

SPEED OF CAGES AND OTHER REGULATIONS.—(c) Cages on which men are riding shall not be lifted nor lowered at a rate of speed greater than 6 hundred feet per minute, except with the written consent of the inspector. No person shall carry any tools, timber or other materials with him on any cage in motion, except for use in repairing the shaft, and no one shall ride on a cage containing either a loaded or empty car. No cage having an unstable or self-dumping platform shall be used for the carriage of men or materials, unless the same is provided with some convenient device by which said platform can be securely locked, and unless it is so locked whenever men or materials are being conveyed thereon. No coal shall be hoisted in any shaft while men are being lowered therein.

RIGHTS OF MEN TO COME OUT.—(d) Whenever men who have finished their day's work, or have been prevented from further work, shall come to the bottom to be hoisted out, an empty cage shall be given them for that purpose, unless there is an available exit, by slope or by stairway in an escapement shaft, and providing there is no coal at the bottom ready to be hoisted.

SAFETY LAMPS.

SEC. 29. OPERATOR MUST FURNISH.—(a) At any mine where the inspector shall find that fire-damp is being generated so as to require the use of a safety lamp in any part thereof, the operator of such mine, upon receiving notice from the inspector that one or more such lamps are necessary to the safety of the men in such mine, shall at once procure and keep for use such number of safety lamps as may be necessary.

MINER MANAGER MUST CARE FOR.—(b) All safety lamps used for examining mines or for working therein shall be the property of the operator, and shall

remain in the custody of the mine manager, or other competent person, who shall clean, fill, trim, examine and deliver the same, locked and in a safe condition, to the men, upon their request, when entering the mine, and shall receive the same from the men at the end of their shift. But miners shall be responsible for the condition and proper use of safety lamps when in their possession.

STRETCHERS AND BLANKETS.

SEC. 30. At every mine where fifty men are employed underground, it shall be the duty of the operator thereof to keep always on hand, and at some readily accessible place, a properly constructed stretcher, a woolen and water proof blanket, and a roll of bandages in good condition and ready for immediate use for binding, covering and carrying any one who may be injured at the mine. When 200 or more men are employed in any mine, two stretchers and two woolen and two water proof blankets, with a corresponding supply of bandages, shall be provided and kept on hand. At mines where fire-damp is generated there shall also be provided and kept in store a suitable supply of linseed or olive oil, for use in case men are burned by an explosion.

CAUTION TO MINERS.

SEC. 31. It shall be unlawful for any miner, workman or other person knowingly or carelessly to injure any shaft, safety lamp, instrument, air-course or brattice, or to obstruct or throw open any air-way, or carry any open lamp or lighted pipe or fire in any form into any place worked by the light of safety lamps, or within five feet of any open powder, or to handle or disturb any part of the hoisting machinery, or open any door regulating an air-current and not close the same, or to enter any part of the mine against caution, or to use other than copper needles and copper-tipped tamping bars, or to disobey any order given in pursuance of this Act, or to do any willful act whereby the lives or health of persons working in mines or the security of the mine or the machinery thereof is endangered.

SEC. 32. It shall be the duty of every operator to post, on the engine house and at the pit top of his mine, in such manner that the employés in the mine can read them, rules not inconsistent with this Act, plainly printed in the English language, which shall govern all persons working in the mine. And the posting of such notice, as provided, shall charge all employés of such mine with legal notice of the contents thereof.

PENALTIES.

SEC. 33. FOR VIOLATING THIS ACT.—Any willful neglect, refusal or failure to do the things required to be done by any section, clause or provision of this Act, on the part of the person or persons herein required to do them, or any violation of any of the provisions or requirements hereof, or any attempt to obstruct or interfere with any inspector in the discharge of the duties herein imposed upon him, or any refusal to comply with the instructions of an inspector given by authority of this Act, shall be deemed a misdemeanor punishable by a fine not exceeding five hundred dollars, or by imprisonment in the county jail for a period not exceeding six months, or both, at the discretion of the court: Provided, that in addition to the above penalties, in case of the failure of any operator to comply with the provisions of this Act in relation to the sinking of escapement shafts and the ventilation of mines, the State's attorney for the county in which such failure occurs, or any other attorney, in case of his neglect to act promptly, shall proceed against such operator by injunction with-

out bond, to restrain him from continuing to operate such mine until all legal requirements shall have been fully complied with.

Any inspector who shall discover that any section of this Act, or part thereof, is being neglected or violated, shall order immediate compliance therewith, and, in case of continued failure to comply, shall, through the State's attorney, or any other attorney in case of his failure to act promptly, take the necessary legal steps to enforce compliance therewith through the penalties herein prescribed.

If it becomes necessary, through the refusal or failure of the State's attorney to act, for any other attorney to appear for the State in any suit involving the enforcement of any provision of this Act, reasonable fees for the services of such attorney shall be allowed by the board of supervisors or county commissioners, in and for the county in which such proceedings are instituted.

For any injury to person or property, occasioned by any willful violations of this Act, or willful failure to comply with any of its provisions, a right of action shall accrue to the party injured, for any direct damages sustained thereby; and in case of loss of life by reason of such willful violation or willful failure as aforesaid, a right of action shall accrue to the widow of the person so killed, his lineal heirs or adopted children, or to any other person or persons who were, before such loss of life, dependent for support on the person or persons so killed, for a like recovery of damages for the injuries sustained by reason of such loss of life or lives not to exceed the sum of 5 thousand dollars. (Amended. See page 208.)

DEFINITIONS.

SEC. 34. MINE.—(a) In this Act the words "mine" and "coal mine," used in their general sense, are intended to signify any and all parts of the property of a mining plant, on the surface or underground, which contribute, directly or indirectly, under one management, to the mining or handling of coal.

EXCAVATIONS OR WORKINGS.—(b) The words "excavations" and "workings" signify any or all parts of a mine excavated or being excavated, including shafts, tunnels, entries, rooms and working places, whether abandoned or in use.

SHAFT.—(c) The term "shaft" means any vertical opening through the strata which is or may be used for purposes of ventilation or escapement, or for the hoisting or lowering of men and material in connection with the mining of coal.

SLOPE OR DRIFT.—(d) The term "slope" or "drift" means any inclined or horizontal way, opening or tunnel to a seam of coal to be used for the same purposes as a shaft.

OPERATOR.—(e) The term "operator" as applied to the party in control of a mine in this Act, signifies the person, firm or body corporate who is the immediate proprietor or owner or lessee of the plant, and, as such, responsible for the condition and management thereof.

INSPECTOR.—(f) The term "inspector" in this Act signifies the State inspector of mines, within and for the district to which he is appointed.

MINE MANAGER.—(g) The "mine manager" is the person who is charged with the general direction of the underground work, or both the underground and outside work of any coal mine, and who is commonly known and designated as "mine boss," or "foreman," or "pit boss."

MINE EXAMINER.—(h) The "mine examiner" is the person charged with the examination of the condition of the mine before the miners are permitted to enter it, and who is commonly known, and has been designated in former enactments as the "fire boss."

NOTE.—Laws 1899, p. 361. April 18, 1899. Repealed by Act of June 6, 1911. See page 229. For Annotations see page 245.

TRAPPERS—FIRST AMENDATORY ACT.

LAWS 1903, P. 250.

MAY 13, 1903.

AN ACT to amend section 19, paragraph f, of an act entitled, "An act, etc. (same as in section 1).

SECTION 1. Be it enacted, etc.: That section 19, paragraph f, of an act entitled, "An act to revise the laws in relation to coal mines and subjects relating thereto, and providing for the health and safety of persons employed therein," approved April 18, 1899, in force July 1, 1899, be amended to read as follows:

SEC. 19. TRAPPERS.—(f) At all principal door-ways, through which cars are hauled, an attendant shall be employed for the purpose of opening and closing said doors when trips of cars are passing to and from the workings. Places for shelter shall be provided at such door-ways to protect the attendants from being injured by the cars while attending to their duties. Provided, that in any or all mines, where doors are constructed in such a manner as to open and close automatically, attendants and places for shelter shall not be required.

NOTE.—The validity of this amendatory act is doubted for the reason that the amendatory section sets out but one paragraph (f) of the original section. The constitution, section 13, article 4, requires that when a section of an existing law is amended, the section "shall be inserted at length in the new act."

INSPECTORS—SECOND AMENDATORY ACT.

LAWS 1905 P. 325.

MAY 12, 1905.

AN ACT to amend section 7 of an act entitled, "An Act to revise the laws in relation to coal mines and subjects relating thereto, and providing for the health and safety of persons employed therein," approved April 18, 1899, in force July 1, 1899.

NOTE.—This amendatory act is under the appropriate title, Miners' Examining Board, page 66.

MINE EXAMINERS—THIRD AMENDATORY ACT.

LAWS 1905, P. 324.

MAY 13, 1905.

AN ACT to amend section 18, paragraph a, of an act entitled, "An act to revise the laws in relation to coal mines, and subjects relating thereto, and providing for the health and safety of persons employed therein," approved April 18, 1899, in force July 1, 1899.

SECTION 1. Be it enacted, etc.: That section 18, paragraph (a) of an act to revise the laws in relation to coal mines and subjects relating thereto, and providing for the health and safety of persons employed therein, approved April 18, 1899, in force July 1, 1899, be and the same is hereby amended so as to read as follows:

SEC. 18. TO ENTER AND EXAMINE ALL PLACES.—(a) A mine examiner shall be required at all mines. His duty shall be to visit the mine before the men are permitted to enter it, and, first, he shall see that the air current is traveling in its proper course and in proper quantity. In order to correctly determine the quantity of air in circulation in different portions of the mine it is hereby made his duty to measure with an instrument for that purpose, the amount of air passing in the last cross cut or break through of each pair of entries or in the last room of each division in a long wall mine, and at all other points where he deems it necessary, the same to be noted in the daily book kept for that purpose. He shall then inspect all places where men are expected to pass or to work and observe whether there are any recent falls or obstructions in rooms or roadways, or accumulations of gas or other unsafe conditions. He shall especially examine the edges and accessible parts of recent falls and old gobs

and air courses. As evidence of his examination of all working places, he shall inscribe on the walls of each, with chalk, the month and day of the month of his visit.

NOTE.—The validity of this amendatory act is doubted for the reason that the amendatory section sets out but one paragraph (a) of the original section. The constitution, section 13, article 4, requires that when a section of a previous law is amended, the section "shall be inserted at length in the new act."

BOUNDARIES—FOURTH AMENDATORY ACT.

LAWS 1905, P. 325.

MAY 13, 1905.

AN ACT to amend section 11 of an act entitled, "An Act to revise the laws in relation to coal mines, and subjects relating thereto, and providing for the health and safety of persons employed therein," approved April 18, 1899, in force July 1, 1899.

SECTION 1. Be it enacted, etc.: That section 11 of an act entitled "An act to revise the laws in relation to coal mines and subjects relating thereto, and providing for the health and safety of persons employed therein," approved April 18, 1899, in force July 1, 1899, be amended to read as follows:

SEC. 11. BOUNDARIES.—The State shall be divided into ten inspection districts, said divisions to be made by the Commissioners of Labor. They may also change from time to time the boundaries of said districts in order to more equally distribute the labors and expenses of the several mine inspectors, but this provision shall not be construed as authorizing the Commissioners of Labor to increase the number of districts.

NOTE.—The validity of this act is doubted for the reasons given in the note to the preceding act.

SIGNALS—FIFTH AMENDATORY ACT.

LAWS 1905, P. 329.

MAY 13, 1905.

AN ACT to amend section 23 of an act entitled "An Act," etc. (same as in section 1).

SECTION 1. Be it enacted, etc.: That section 23 of an act entitled "An act to revise the laws in relation to coal mines, and subjects relating thereto and providing for the health and safety of persons employed therein," approved April 18, 1899, in force July 1, 1899, be amended so as to read as follows:

SEC. 23. At every mine operated by shaft and steam power, the means of signaling to and from the bottom man, the top man, and the engineer, shall consist of a tube, or tubes, or wire encased in wood or iron pipes, through which signals shall be communicated by electricity, compressed air or other pneumatic devices or ringing of a bell. The following signals are provided for use at mines where signals are required:

FROM THE BOTTOM TO THE TOP.—One ring or whistle shall signify to hoist coal or the empty cage, and also to stop either when in motion.

Two rings or whistles shall signify to lower cage.

Three rings or whistles shall signify that the men are coming up; when return signal is received from the engineer, men will get on the cage and the cager shall ring or whistle one to start.

Four rings or whistles shall signify to hoist slowly, implying danger.

Five rings or whistles shall signify accident in the mine and a call for a stretcher.

Six rings or whistles shall call for a reversal of the fan.

FROM TOP TO BOTTOM.—One ring or whistle shall signify: All ready, get on cage. Two rings or whistles shall signify: Send away empty cage.

Provided, that the operator of any mine may, with the consent of the inspector, add to this code of signals in his discretion, for the purpose of increasing its efficiency or of promoting the safety of the men in said mine, but whatever code may be established and in use at any mine, must be conspicuously posted at the top and at the bottom, and in the engine room, for the information and instruction of all persons concerned.

EMPLOYMENT OF BOYS AND WOMEN—SIXTH AMENDATORY ACT.

LAWS 1905, P. 326.

MAY 13, 1905.

AN ACT to amend section 22 of an act entitled, "An act," etc. (same as in section 1).

SECTION 1. Be it enacted, etc.: That section 22 of an act entitled, "An act to revise the laws in relation to coal mines and subjects relating thereto, and providing for the health and safety of persons employed therein," approved April 18, 1899, in force July 1, 1899, be amended to read as follows:

SEC. 22. BOYS AND WOMEN.—No boy under the age of sixteen years, and no woman or girl of any age, shall be permitted to do any manual labor in or about any mine, and before any boy can be permitted to work in any mine he must produce to the mine manager or operator thereof an affidavit from his parent or guardian, or next of kin, sworn and subscribed to before a justice of the peace or notary public, that he, the said boy, is sixteen years of age.

STATE MINING BOARD—SEVENTH AMENDATORY ACT.

LAWS 1907, P. 387.

MAY 27, 1907.

AN ACT to amend sections 6, 7, 8, 9, 18, and 19 of an act entitled, "An Act to revise the laws in relation to coal mines and subjects relating thereto, and providing for the health and safety of persons employed therein," approved April 18, 1899, in force July 1, 1899, as amended by Acts approved May 13, 14, 1903, in force July 1, 1903, and as amended by Acts approved May 12, 13, 16, 1905, in force July 1, 1905, be and the same are hereby amended so as to read as follows, respectively:

NOTE.—The amended sections 6, 7, 8, and 9 are found under the appropriate title, Examination of Inspectors—Appointment. See page —.

* * * * *

SEC. 18. TO ENTER AND EXAMINE ALL PLACES.—(a) A mine examiner shall be required at all mines. His duty shall be to visit the mine before the men are permitted to enter it, and, first, he shall see that the air-current is traveling in its proper course and in proper quantity. In order to correctly determine the quantity of air in circulation in different portions of the mine it is hereby made his duty to measure with an instrument for that purpose, the amount of air passing in the last cross-cut or break through of each pair of entries, or in the last room of each division in a long wall mine, and at all other points where he deems it necessary, the same to be noted in the daily book kept for that purpose. He shall then inspect all places where men are expected to pass or to work and observe whether there are any recent falls or obstructions in rooms or roadways, or accumulations of gas or other unsafe conditions. He shall especially examine the edges and accessible parts of recent falls and old gobs and air-courses. As evidence of his examination of all working places he shall inscribe on the walls of each, with chalk, the month and the day of the month of his visit.

TO POST DANGER NOTICES.—(b) When working places are discovered in which accumulations of gas, or recent falls, or any dangerous conditions exist, he shall place a conspicuous mark thereat as notice to all men to keep out, and at once report his finding to the mine manager. No one shall be allowed to remain in

any part of the mine through which gas is being carried into the ventilating current, nor to enter the mine to work therein, except under the direction of the mine manager until all conditions shall have been made safe.

TO MAKE DAILY RECORD.—(c) The mine examiner shall make a daily record of the conditions of the mine, as he has found it, in a book kept for that purpose, which shall be preserved in the office for the information of the company, the inspector and all other persons interested, and this record shall be made each morning before the miners are permitted to descend into the mine.

VENTILATION.

SEC. 19. Throughout every coal mine there shall be maintained currents of fresh air sufficient for the health and safety of all men and animals employed therein, and such ventilation shall be produced by a fan, or some other artificial means.

AMOUNT OF AIR REQUIRED.—(a) The quantity of air required to be kept in circulation and passing a given point shall be not less than 100 cubic feet per minute for each person, and not less than 600 cubic feet per minute for each animal in the mine, measured at the foot of the downcast, and this quantity may be increased at the discretion of the inspector whenever, in his judgment, unusual conditions make a stronger current necessary. Said currents shall be forced into every working place throughout the mine, so that all parts of the same shall be reasonably free from standing powder smoke and deleterious air of every kind.

MEASUREMENTS.—(b) The measurements of the currents of air shall be taken with an anemometer at the foot of the downcast, at the foot of the upcast, and at the working face of each division or split of the air-current. And a record of such measurements shall be made and preserved in the office, as elsewhere provided for in this Act.

AIR CURRENTS TO BE SPLIT.—(c) The main current of air shall be so split or subdivided as to give a separate current of reasonably pure air to every 100 men at work, and the inspector shall have authority to order separate currents for smaller groups of men, if, in his judgment, special conditions make it necessary.

VENTILATION OF STABLE.—(d) The air-current for ventilating the stable shall not pass into the intake air-current for ventilating the working parts of the mine.

SELF-CLOSING DOORS.—(e) All permanent doors in mines, used in guiding (guiding) and directing the ventilating currents, shall be so hung and adjusted as to close automatically.

TRAPPINGS.—(f) At all principal doorways, through which cars are hauled, an attendant shall be employed for the purpose of opening and closing said doors when trips of cars are passing to and from the workings. Places for shelter shall be provided at such doorways to protect the attendants from being injured by the cars while attending to their duties: Provided, that in any or all mines, where doors are constructed in such a manner as to open and close automatically, attendants and places for shelter shall not be required.

CROSS-CUTS.—(g) Cross-cuts shall be made not more than sixty feet apart, and no room shall be opened in advance of the last open cross-cut.

STOPPIINGS.—(h) When it becomes necessary to close cross-cuts connecting the inlet and outlet air-courses in mines generating dangerous gases, the stoppings shall be built in a substantial manner with brick or other suitable building material laid in mortar or cement, if practicable, but in no case shall they be built of lumber, except for temporary purposes.

AUTHORITY OF INSPECTOR.—(i) Whenever the inspector shall find men working without sufficient air, he shall at once give the mine manager or operator notice and a reasonable time in which to restore the current, and upon his or their refusal or neglect to act promptly, the inspector may order the endangered men out of the mine.

MAPS—EIGHTH AMENDATORY ACT.

LAWS 1907, P. 394.

MAY 25, 1907.

AN ACT to amend section one (1) of an Act entitled, "An Act," etc. (same as in section 1).

SECTION 1. Be it enacted, etc.: That section 1 of an Act entitled, "An Act to revise the laws in relation to coal mines and subjects relating thereto and providing for the health and safety for persons employed therein," approved April 18, 1899, and in force July 1, 1899, and the same is hereby amended to read as follows:

SEC. 1. (a) That the operator of every coal mine in this State shall make, or cause to be made, an accurate map or plan of such mine, drawn to a scale not smaller than two hundred feet to the inch, and as much larger as practicable, on which shall appear the name of the State, county and township in which the mine is located, the designation of the mine, the name of the company or owner, the certificate of the mining engineer or surveyor as to the accuracy and date of the survey, the north point, and the scale to which the drawing is made.

(b) Every such map or plan shall correctly show the surface boundary lines of the coal rights pertaining to each mine, and all section or quarter section lines or corners within the same; the lines of town lots and streets; the tracks and side-tracks of all railroads, and the location of all wagon roads, rivers, streams, ponds, buildings, landmarks and principal objects on the surface.

(c) For the underground workings, said maps shall show all shafts, slopes, tunnels or other openings to the surface or to the workings of a contiguous mine; all excavations, entries, rooms and cross-cuts; the location of the fan or furnace and the direction of the air currents, the location of pumps, hauling engines, engine planes, abandoned works, fire walls and standing water; and the boundary line of any surface out-crop of the seam.

(d) A separate and similar map, drawn to the same scale in all cases, shall be made of each and every seam which, after the passage of this Act, shall be worked in any mine, and the maps of all such seams shall show all shafts, inclined planes or other passage ways connecting the same.

(e) A separate map shall also be made of the surface whenever the surface buildings, lines or objects are so numerous as to obscure the details of the mine workings if drawn upon the same sheet with them, and in such case the surface map shall be drawn on transparent cloth or paper so that it can be laid upon the map of the underground workings, and thus truly indicate the local relation of lines and objects on the surface to the excavations of the mine.

(f) Each map shall also show by profile drawing and measurements, in feet and decimals thereof, the rise and dip of the seam from the bottom of the shaft in either direction to the face of the workings.

(g) The original or true copies of all such maps shall be kept in the office at the mine, and true copies thereof shall so be furnished to the State inspector of mines for the district in which said mine is located, and shall be filed in the office of the recorder of the county in which the mine is located, within

thirty days after the completion of the same. The maps so delivered to the inspector shall be the property of the State, and shall remain in the custody of said inspector during his term of office, and be delivered by him to his successor in office; they shall be kept at the office of the inspector, and be open to the examination of all persons interested in the same, but such examination shall only be made in the presence of the inspector, and he shall not permit any copies of the same to be made without the written consent of the operator or the owner of the property.

(h) An extension of the last preceding survey of every mine in active operation shall be made once in every twelve months prior to July 1, of every year, and the results of said survey, with the date thereof, shall be promptly and accurately entered upon the original maps and all copies of the same, so as to show all changes in plan or new work in the mine, and all extensions of the old workings to the most advanced face or boundary of said workings, which have been made since the last preceding survey. The said changes and extensions shall be entered upon the copies of the maps in the hands of the said inspector and recorder, within thirty days after the last survey is made.

(i) When any coal mine is worked out or is about to be abandoned or indefinitely closed, the operator of the same shall make or cause to be made a final survey of all parts of such mine, and the results of the same shall be duly extended on all maps of the mine and copies thereof, so as to show all excavations and the most advanced workings of the mine, and their exact relation to the boundary or section lines on the surface.

(j) The State inspector of mines may order a survey to be made of the workings of any mine, and the results to be extended on the maps of the same and the copies thereof, whenever, in his judgment, the safety of the workmen, the support of the surface, the conservation of the property or the safety of an adjoining mine require it.

(k) Whenever the operator of any mine shall neglect or refuse, or, for any cause not satisfactory to the mine inspector, fail, for the period of three months, to furnish to said inspector and recorder the map or plan of such mine or a copy thereof, or of the extensions thereto, as provided for in this Act such operator shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined not more than one hundred dollars, and shall stand committed to the county jail until such fine is fully paid and in addition thereto, the inspector is hereby authorized to make or cause to be made an accurate map or plan of such mine at the expense of the owner thereof, and the costs of the same may be recovered by law from the operator in the same manner as other debts by suit in the name of the inspector and for his use, and a copy of the same shall be filed by him with said recorder.

FAILURE TO COMPLY—PENALTIES—NINTH AMENDATORY ACT.

LAWS 1907, P. 296.

MAY 17, 1907.

AN ACT to amend section thirty-three (33) of an Act entitled, "An Act, etc. (same as in section 1).

SECTION 1. Be it enacted, etc.: That section thirty-three (33) of an Act entitled, "An Act to revise the laws in relation to coal mines, and subjects relating thereto and providing for the health and safety of persons employed therein," approved April 18, 1889, (1899) in force July 1, 1899, be amended so as to read as follows:

PENALTIES.

SEC. 33. FOR VIOLATING THIS ACT.—Any wilful neglect, refusal or failure to do the things required to be done by any section, clause or provision of this Act, on the part of the person or persons herein required to do them, or any violation of any of the provisions or requirements hereof, or any attempt to obstruct or interfere with any inspector in the discharge of the duties herein imposed upon him, or any refusal to comply with the instructions of an inspector given by authority of this Act, shall be deemed a misdemeanor punishable by a fine not exceeding five hundred dollars, or by imprisonment in the county jail for a period not exceeding six months, or both, at the discretion of the court: Provided, that in addition to the above penalties, in case of the failure of any operator to comply with the provisions of this Act in relation to the sinking of escapement shafts and the ventilation of mines, the State's attorney for the county in which such failure occurs, or any other attorney in case of his neglect to act promptly, shall proceed against such operator by injunction without bond, to restrain him from continuing to operate such mine until all legal requirements shall have been fully complied with.

Any inspector who shall discover that any section of this Act, or part thereof, is being neglected or violated, shall order immediate compliance therewith, and, in case of continued failure to comply, shall, through the State's attorney, or any other attorney in case of his failure to act promptly, take the necessary legal steps to enforce compliance therewith through the penalties herein prescribed.

If it becomes necessary, through the refusal or failure of the State's attorney to act, for any other attorney to appear for the State in any suit involving the enforcement of any provisions of this Act, reasonable fees for the services of such attorney shall be allowed by the board of supervisors or county commissioners in and for the county in which such proceedings are instituted.

For any injury to person or property, occasioned by any wilful violations of this Act, or wilful failure to comply with any of its provisions, a right of action shall accrue to the party injured for any direct damages sustained thereby; and in case of loss of life by reason of such wilful violation or wilful failure as aforesaid, a right of action shall accrue to the widow of the person so killed, his lineal heirs or adopted children, or to any other person or persons who were, before such loss of life, dependent for support on the person or persons so killed, for a like recovery of damages for the injuries sustained by reason of such loss of life or lives not to exceed the sum of ten thousand dollars: Provided, that every such action for damages in case of death shall be commenced within one year after the death of such person.

REFUGE HOLES—TENTH AMENDATORY ACT.

LAWS 1907, P. 397.

MAY 25, 1907.

AN ACT to amend section 21 of an Act entitled, "An Act, etc. (same as in section 1).

SECTION 1. Be it enacted, etc.: That section 21 of "An Act to revise the laws in relation to coal mines and subjects relating thereto, and providing for the health and safety of persons employed therein," approved April 18, 1899, in force July 1, 1899, be and the same is hereby amended so as to read as follows:

SEC. 21. ENGINE PLANES—(a) On all single track hauling roads wherever hauling is done by machinery and on all gravity or inclined planes, in mines,

upon which the persons employed in the mine must use while performing their work or travel on foot to and from their work, places of refuge must be cut in the side wall not less than three feet in depth and four feet wide and five feet in height, and not more than twenty yards apart, unless there is a clear space of at least three feet between the side of the car and the side of the road, which space shall be deemed sufficient for the safe passage of men. On every such road which is more than 100 feet in length, a code of signals shall be established between the hauling engineer and all points on the road, except where hauling is done by motors. A conspicuous light must be carried on the front of every trip or train of pit cars moved by machinery, except when such trip is on an inclined plane.

MULE ROADS.—(b) On all hauling roads or gangways on which the hauling is done by draft animals, or gangways whereon men are obliged to be in the performance of their duties or have to pass to and from their work, places of refuge must be cut in the side wall at least two and a half feet deep, four feet wide and five feet in height, and not more than twenty yards apart; but such places shall not be required in entries from which rooms are driven at regular intervals not exceeding twenty years, and wherever there is a clear space of two and one-half feet between the car and the rib, such space shall be deemed sufficient for the passage of men. All places of refuge must be kept clear of obstructions and no material shall be stored nor be allowed to accumulate therein.

EXPLOSIVES—ELEVENTH AMENDATORY ACT.

LAWS 1907, P. 398.

MAY 18, 1907.

AN ACT to amend section 20 of an Act entitled, "An Act to revise the laws in relation to coal mines and subjects relating thereto, and providing for the health and safety of persons employed therein," approved April 18, 1899, in force July 1, 1899, as amended by Acts approved May 13, and 14, 1903, in force July 1, 1903, and further amended by Acts approved May 12, 13 and 16, 1905, in force July 1, 1905.

SECTION 1. Be it enacted, etc.: That section 20 of an Act entitled "An Act to revise the laws in relation to coal mines and subjects relating thereto, and providing for the health and safety of persons employed therein," approved April 18, 1899, in force July 1, 1899, as amended by an Act approved May 13, 1903, in force July 1, 1903, and further amended by an Act approved May 13, 1905, and in force July 1, 1905, be and the same is hereby amended to read as follows:

SEC. 20. No blasting powder, or other explosives shall be stored in any coal mine and no workman shall have at any time more than one twenty-five pound keg of black powder in the mine nor more than three pounds of high explosives, and in no case shall more than one kind of explosive be used in any one drill hole: Provided, that nothing in this section shall be construed to prevent the operator of any mine from taking into the mine, when miners are not therein, and in electrically equipped mines, while the current is turned off on roadways through which it is transported, a sufficient quantity of powder for the reasonable requirements of such mine for the next succeeding working day.

PLACE AND MANNER OF STORING.—(a) Every person who has powder or other explosives in a mine shall keep the same in a wooden box securely locked, with hinged lid, and said box shall be kept as far as practicable from the track; and all powder boxes shall be kept as far as practicable from each other and each in a secluded place; nor shall black powder and high explosives be kept in the same box.

MANNER OF HANDLING.—(b) Whenever a workman is about to open a box or keg containing powder or other explosive, and while handling the same, he shall place and keep his lamp at least five feet distant from said explosive, and

in such position that the air current can not convey sparks to it, and no person shall approach nearer than five feet to any open box containing an open keg of powder or other explosive with a lighted lamp, lighted pipe or other thing containing fire. No miner, workman or other person shall open any keg, can or other container of blasting powder or other explosive with any pick, wedge, tool, or in any manner except by the means of opening the same provided by the manufacturer thereof, and it shall be unlawful, and a violation of this Act, for any person to have in his possession in any mine any keg, can or other container of blasting powder or other explosive, containing blasting powder or other explosive which has been opened in violation of this Act.

COPPER TOOLS.—(c) In process of charging and tamping a hole, no person shall use any iron or steel pointed needle. The needle used in preparing a blast shall be made of copper and the tamping bar shall be tipped with at least five (5) inches of copper. No coal dust nor any material that is inflammable, or that may create a spark, shall be used for tamping, and some soft material must always be placed next to the cartridge or explosive, whether the same be wet or dry, or that can create a spark in tamping, be used for tamping.

USE OF SQUIBS.—(d) A miner, workman or shot firer who is about to explode a shot with a manufactured squib shall not shorten the match thereof, or saturate it with mineral oil or ignite it except at the end; and he shall see that all persons are out of danger from the probable effects of such shots, and whether using squibs or fuse shall take measures to prevent any one approaching by shouting "fire" immediately before lighting the same.

NOT MORE THAN ONE SHOT AT A TIME.—(e) Not more than one shot shall be ignited at the same time in any one working place, unless the firing is done by electricity or by fuses of such length that the interval between the explosions of any two shots shall not be less than one minute, and in no case shall any shot or shots be fired or lighted which are termed depending or dependent shots, until after the expiration of ten (10) minutes from the successful firing of such other shot or blast. When successive shots are to be fired in any working place in which the roof is broken or faulty, the smoke must be allowed to clear away and the roof must be examined and made secure between shots.

MISSED SHOTS.—(f) No person shall return to a missed shot if lighted with a squib until five (5) minutes have elapsed from the time of lighting the same, or if lighted with fuse, until the following day; and no person shall return to a missed shot when the firing is done by electricity unless the wires are disconnected from the battery.

DUSTY MINES.—(g) In case the galleries, roadways or entries of any mine are so dry that the air becomes charged with dust, the operator of such mine must have such roadways regularly and thoroughly sprayed, sprinkled or cleaned.

MINING OPERATIONS.

THIRD GENERAL REVISION, 1911.

LAWS 1911, P. 388.

JUNE 6, 1911.

AN ACT to revise the laws in relation to coal mines and subjects relating thereto, and providing for the health and safety of persons employed therein.

NOTE.—Sections 1 to 6, inclusive, are included under the title, Miners' Examining Board—State Mining Board, page 70.

SEC. 7. MAPS REQUIRED.—(a) The operator of every coal mine in the State shall make, or cause to be made, an accurate map or plan of such mine, drawn to a scale not smaller than 200 feet to the inch. All measurements shall be in feet and decimals of a foot. On such maps shall appear the name of the State, county and township in which the mine is located, the designation of the mine, the name of the company or owner, the certificate of the mining engineer or surveyor as to the accuracy and date of the survey, the north point and the scale to which the drawing is made.

SURFACE SURVEY.—(b) Such map or plan shall accurately show the surface boundary lines of the coal rights pertaining to each mine, and all sections or quarter-section lines or corners within the same; the lines of town lots and streets; the tracks and side-tracks of all railroads, and the location of all wagon roads, rivers, streams, ponds, location and depth of holes drilled for oil, gas or water that penetrate a workable coal seam, and the elevation above the coal seam of any stream or body of water that might endanger the mine.

UNDERGROUND SURVEY.—(c) For the underground workings, said maps shall show all shafts, slopes, tunnels or other openings to the surface or to the workings of a contiguous mine; all excavations, entries, rooms and cross-cuts; the location of the fan or furnace and the direction of the air currents; the location of pumps, hauling engines, engine planes, abandoned works, fire walls and standing water; and the outcrop line of the seam, if any, on the property.

The general outline of all areas in which pillars have been drawn shall be indicated on the map.

Each underground map also shall show, in feet and decimals thereof, the elevation of the floor of the coal at reasonable intervals on the main entries and cross entries from the bottom of the shaft to the face of the workings; such elevations shall be referred to the floor of the coal at the bottom of the hoisting shaft.

MAP FOR EVERY SEAM.—(d) A separate and similar map, down to the same scale, shall be made of each and every seam, which, after the passage of this Act, shall be worked in any mine, and the maps of all such seams shall show all shafts, inclined planes or other passageways connecting the same.

SEPARATE MAP FOR THE SURFACE.—(e) A separate map also shall be made of the surface whenever the surface buildings, lines or objects are so numerous as to obscure the details of the mine workings if drawn upon the same sheet with them, and in such case the surface map shall be drawn on transparent cloth or paper, so that it can be laid upon the map of the underground workings, and thus indicate the relation of lines and objections [objects] on the surface to the excavations of the mine.

THE DIP.—(f) Each map shall also show by profile drawing and measurements, in feet and decimals thereof, the rise and dip of the seam from the bottom of the shaft in either direction to the face of the workings.

COPIES FOR INSPECTORS AND RECORDERS.—(g) The original or true copies of all such maps shall be kept in the office at the mine, and one true copy thereof shall be furnished to the State inspector of mines for the district in which said mine is located, and one shall be filed in the office of the recorder of the county in which the mine is located, within thirty days after the completion of the same. The maps so delivered to the inspector and to the recorder shall remain in the custody of said inspector and recorder during their respective terms of office, and be delivered by them to their successors in office. They shall be kept at the office of the inspector and of the recorder, and be open to the examination of all persons interested in the same, but such examination shall be made only in the presence of the inspector or the recorder. Neither the inspector nor the county recorder shall permit any copies of the same to be made without the written consent of the operator or the owner of the property.

The county recorder shall properly index such map as part of the title record of the property affected.

A copy of each map and extensions to the same shall be furnished the manager of the mine rescue stations for his use in connection with rescue work only.

ANNUAL SURVEYS.—(h) An extension of the last preceding survey of every mine in active operation shall be made once in every twelve months prior to July 1, of every year, and the results of said survey, with the date thereof shall be promptly and accurately entered upon the original maps and all copies of the same, so as to show all changes in plan or new work in the mine, and all extensions of the old workings to the most advanced face or boundary of said workings which have been made since the last preceding survey. The State inspector, the county recorder and the manager of the rescue stations shall be furnished with a copy of the said extended map or of the extensions to said map.

ABANDONED MINES.—(i) When any coal mine is worked out or is about to be abandoned or indefinitely closed, the operator of the same shall make, or cause to be made, a final survey of such mine; to show the entire worked out area when the mine was closed, and the results of the same shall be duly extended on all maps of the mine and copies thereof herein required to be filed.

SPECIAL SURVEY.—(j) The State inspector of mines, or the State Mining Board, may order a survey to be made of the workings of any mine in addition to the regular annual survey, the results to be extended on the maps of the same and the copies thereof, whenever the safety of the workmen, unlawful injury to the surface, unlawful encroachment upon adjoining property, or the safety of an adjoining mine requires it.

If the State inspector of mines or the State Mining Board shall believe any map required by this Act is materially inaccurate or imperfect, the State inspector or State Mining Board is authorized to make, or cause to be made a correct survey and map at the expense of the operator, the cost recoverable as for debt: Provided, if such test survey shows the operator's map to be correct, the State shall be liable for the expense incurred, payable in such manner as other State accounts incurred by the State Mining Board.

PENALTIES FOR FAILURE.—(k) If an operator of any mine refuses or wilfully neglects, for a period of three months, to furnish the said State inspector, the county recorder and the manager of the rescue stations the map or plan of such mine, or a copy thereof, or of the extensions thereto, as provided for

In this Act, such operator shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than ten dollars nor more than one hundred dollars, in the discretion of the court, and shall stand committed to the county jail until such fine is paid, and, in addition thereto, the State inspector or State Mining Board is hereby authorized to make, or cause to be made, an accurate map or plan of such mine at the expense of the operator thereof; and the cost of the same may be recovered by law from the operator in the same manner as other debts by suit, in the name of the State inspector or the State Mining Board, and for his or its use, and copies of the same shall be filed by him or the board, one each with said recorder and said manager of the rescue stations.

SEC. 8. SINKING SUBJECT TO INSPECTION.—(a) Any shaft or other opening in process of sinking, or driving, for the purpose of mining coal, shall be subject to the inspection of the State inspector of mines for the district in which said shaft or opening is located.

(b) Over every shaft that is being sunk or shall hereafter be sunk, there shall be a safe and substantial structure to support sheaves or pulley ropes at a height not less than 15 feet above the tipping place. The landing platform of such shaft shall be so arranged that material can not fall into the shaft while the bucket is being emptied or taken from the hoisting rope. If provisions are made to land a bucket on a truck, said truck and platform shall be so arranged that material can not fall into the shaft.

(c) Rock or coal shall not be hoisted except in a bucket or on a cage when men are in the bottom of the shaft; and said bucket or cage must be connected to the hoisting rope by a safety hook, clevis or other safety attachment. The rope shall be fastened to the side of the drum and not less than three coils of rope shall remain on the drum. In shafts over 100 feet in depth, suitable provision shall be made to prevent the bucket from swinging while being lowered or hoisted, and guides provided for this purpose shall be maintained at a distance of not more than 75 feet from the bottom of the shaft.

(d) An efficient brake shall be attached to the drum of the engine used for hoisting in shaft sinking, and the drum shall be provided with a flange on each end not less than 4 inches in height.

(e) Not more than four persons shall be lowered or hoisted in or on a bucket in a shaft at one time, and no person shall ride on a loaded bucket.

(f) All blasts in shaft sinking shall be exploded by electric battery.

(g) Provision shall also be made for the proper ventilation of shafts while being sunk.

(h) No one but a certificated hoisting engineer shall be in charge of the hoisting engines while a shaft is being sunk.

SEC. 9. TWO PLACES OF EGRESS.—(a) For every coal mine in this State, whether worked by shaft, slope or drift, there shall be provided and maintained, in addition to the hoisting shaft, or other place of delivery, an escapement shaft or opening to the surface, or an underground communicating passageway with a continuous mine, so that there shall be at least two distinct and available means of egress to all persons employed in such coal mines.

DISTANCE FROM MAIN SHAFT.—(b) In mines sunk after the passage of this Act, the first escapement shall be separated from the main shaft by such extent of natural strata as may be agreed upon by the inspector of the district and the owner of the property, but the distance between the main shaft and the escapement shaft shall not be less than 500 feet nor more than 2,000 feet; Provided, that in mines employing ten (10) men or less the distance between the hoisting shaft and the escapement shaft shall not be less than two hundred and fifty (250) feet.

UNLAWFUL TO EMPLOY MORE THAN TEN MEN.—(c) It shall be unlawful to employ underground, at any one time, more men than in the judgment of the inspector are necessary to complete speedily the connections with the escapement shaft or adjacent mine; and said number must not exceed ten men at any one time for any purpose in said mine until such escapement or connection is completed.

The time allowed for completing such escapement shaft or making such connections with an adjacent mine, as is required by the terms of this Act, shall be three months for shafts 200 feet or less in depth, and six months for shafts less than 500 feet and more than 200 feet, and nine months for all other mines, slopes of [or] drifts, or connections with adjacent mines. The time to date in all cases from the hoisting of coal from the hoisting shaft: Provided, that in mines employing ten (10) men or less, the time for completing the escapement shaft shall not be more than six months from the time of hoisting coal.

STAIRWAYS OR CAGES.—(d) The escapement shaft at every mine opened after the passage of this Act shall be equipped with a substantial stairway, set at an angle not greater than forty-five degrees, which shall be provided with hand-rails, and with platforms or landings at each turn of the stairway.

If any escapement shaft, at the time of the passage of this Act, be equipped with a cage for hoisting men, such shaft, cage and all equipment used in connection therewith must conform to the requirements of this Act in reference to the hoisting and lowering of men.

PASSAGEWAYS TO ESCAPEMENT.—(e) Such escapement shaft or opening or communication with a contiguous mine as aforesaid, shall be constructed in connection with every seam of coal worked in such mine, and all passageways communicating with the escapement shaft or place of exit, from the main hauling ways to said place of exit, shall be maintained free of obstruction at least 5 feet high and 5 feet wide. Such passageways must be so graded and drained that it will be impossible for water to accumulate in any depression or dip of the same in quantities sufficient to obstruct the free passage of men. No passageway to an escapement shaft shall pass through a stable. At all points where the passageway to the escapement shaft or other place of exit is intersected by other roadways or entries, conspicuous signboards shall be placed indicating the direction it is necessary to take in order to reach such place of exit.

COMMUNICATIONS WITH ADJACENT MINES.—(f) When operators of adjacent mines have, by agreement, established underground communications between said mines as an escapement outlet for the men employed in both, the intervening doors shall remain unlocked and ready at all times for immediate use.

When such communication has once been established between contiguous mines, the operator of either shall not close the same without the consent of the operator of the contiguous mine and of the State inspector for the district: Provided, that when either operator desires to abandon mining operations the expense and duty of maintaining such communication shall devolve upon the party continuing the operations and using the same.

SEC. 10. GATES AT LANDINGS.—(a) The upper and lower landing at the top of each shaft, and the opening of each intermediate seam from or to the shaft, shall be kept clear and free from loose materials, and shall be protected with automatic or other gates. At the top landing cage supports, where necessary, must be carefully set and adjusted so as to securely hold the cage when at rest.

LIGHT ON LANDINGS.—(b) Whenever the hoisting or lowering of men occurs before daylight or after dark, or when the landing at which men take or leave the cage is at all obscured by steam or otherwise, there must always be maintained at such landing a light sufficient to show the landing and surrounding

objects distinctly. Likewise, as long as there are men underground in any mine the operator shall maintain a good and sufficient light at the bottom of the shaft thereof, so that persons coming to the bottom may clearly discern the cage and objects in the vicinity.

HOISTING EQUIPMENT.—(c) Every shaft in which men are hoisted and lowered must be equipped with a cage, or cages, fitted to guide rails running from the top to the bottom. Said cages must be substantially constructed; they must be furnished with sheet metal covers adequate to protect persons riding thereon from falling objects; they must be equipped with safety catches. Every cage on which persons are carried must be fitted with iron bars or rings in proper place and sufficient number to furnish a secure hand-hold for every person permitted to ride thereon. There shall be attached to every cage on which men are, or may be, hoisted or lowered, a horn or other device with which signals can be given on the cage.

(d) In connection with every hoisting engine used for hoisting or lowering of men there shall be provided as follows:

BRAKE ON DRUM.—(1) A good and sufficient brake on the drum, so adjusted that it may be operated by the engineer without leaving his post at the levers.

FLANGES.—(2) Flanges attached to the sides of the drum, with a distance when the whole rope is wound on the drum of not less than 4 inches between the outer layer or rope and the greatest diameter of the flange.

ROPE FASTENINGS.—(3) One end of each hoisting rope shall be well secured on the drum, and at least three laps of the same shall remain on the drum when the cage is at rest at the lowest caging place in the shaft.

The lower end of each rope shall be securely fastened to the cage by suitable sockets and chains.

INDICATOR.—(4) An index dial or indicator that plainly shows the engineer at all times the true position of the cages in the shaft.

SIGNALS.—(e) At every mine where men are hoisted and lowered by machinery there shall be provided means of signaling to and from the bottom man, the top man and the engineer. The signal system shall consist of a tube, or tubes, or wire encased in wood or iron pipes, through which signals shall be communicated by electricity, compressed air or other pneumatic devices, or by ringing a bell. When compressed air or other pneumatic devices are used for signaling, provision must be made to prevent signal from repeating or reversing. The following signals shall be used at mines where signals are required:

FROM THE BOTTOM TO THE TOP.—One ring or whistle shall signify to hoist coal or the empty cage, and also to stop either when in motion.

Two rings or whistles shall signify to lower cage.

Three rings or whistles shall signify that men are coming up or going down; when return signal is received from the engineer the men shall get on the cage and the proper signal to hoist or lower shall be given.

Four rings or whistles shall signify to hoist slowly, implying danger.

Five rings or whistles shall signify accident in the mine and a call for a stretcher.

SIX RINGS or whistles shall signify hold cage perfectly still until signaled otherwise.

FROM TOP TO BOTTOM, one ring or whistle shall signify: All ready, get on cage.

Two rings or whistles shall signify: Send away empty cage.

Provided, that the operator of any mine may, with the consent of the Inspector, add to this code of signals in his discretion. The code of signals in use at any mine shall be conspicuously posted at the top and at the bottom of

the shaft, and in the engine room at some point in front of the engineer when standing at his post.

GAUGES.—(f) Every boiler shall be provided with a glass water gauge and not less than three try cocks and also a steam gauge, except that where two or more boilers are equipped with a steam drum properly connected with the boilers to indicate the steam pressure and without any valves between said boilers and the steam drum, the steam gauge may be placed in said steam drum; and other steam gauge shall be attached to the steam pipe in the engine house, each to be placed in such a position that the engineer and the fireman can readily see what pressure is being carried. Such steam gauges shall be kept in good order, and adjusted and be tested as often, at least, as every six months.

SAFETY VALVES.—(g) Every boiler shall be provided with a safety valve with weights or springs properly adjusted, except that where two or more boilers are equipped with a steam drum properly connected with the boilers to indicate the steam pressure and without any valves between said boiler and the steam drum, the safety valve may be placed in said steam drum.

INSPECTION OF BOILERS.—(h) All boilers used in generating steam in and about coal mines or sinking shafts shall be kept in good order, and the operator of every coal mine where steam boilers are in use shall have said boilers thoroughly examined and inspected by a competent boilermaker or other qualified person, not an employe of said operator, as often as once in every six months, and oftener if the mine inspector shall so require in writing, and the result of every such inspection shall be reported on suitable blanks to said mine inspector.

RUN-AROUND AT BOTTOM.—(i) At every underground landing where men enter or leave the cage and where men must pass from one side of the cage to the other there shall be a passageway, free from obstruction and dry as possible, around the shaft not less than three feet wide for the use of men only; and animals or cars shall not be taken through such passageway while men are passing or desirous of passing through such passageway.

REFUGE PLACE ON SHAFT BOTTOM.—(j) A refuge place or places for men coming out at the close of the day's work shall be provided off the main bottom of cageroom in shaft mines, at a place or places and of such size as shall be approved by the State mining inspector. Such place or places shall be not more than 400 feet from the hoisting shaft. When leaving such refuge places to be hoisted out, the men shall be governed by the rules of the mine.

OBSTRUCTIONS IN SHAFT.—(k) No accumulation of ice or obstruction of any kind shall be permitted in any shaft in which men are hoisted or lowered; nor shall any dangerous gases or steam be discharged into said shaft in such quantities or at such times as to interfere with the safe passage of men. All surface or other water which flows therein shall be conducted by rings or otherwise to receptacles provided for the same in such manner as to prevent water from falling upon men while passing into or out of the mine or while in the discharge of their duties about the shaft bottom.

INSPECTION.—(l) All shafts by which men enter or leave the mine, and the passageways leading thereto, or to the works of a contiguous mine used as an escapement shaft shall be carefully examined at least once each week that the mine is operating and the date and findings of such an examination entered promptly in the books kept at the mine for that purpose. If obstructions to the free passage of men are found, their location and nature shall be stated in said report. Such obstructions shall be promptly removed.

SEC. 11. BUILDINGS ON THE SURFACE.—(a) After the passage of this Act, there shall not be erected or re-erected on the surface within 100 feet of any

hoisting shaft or escapement shaft, any inflammable structure: Provided, that this paragraph shall not apply to mines employing ten (10) men or less.

OIL AND OTHER EXPLOSIVES.—(b) —No oils or similarly inflammable materials shall be stored within 100 feet of any hoisting or escapement shaft, nor in any mine.

All explosive materials shall be stored in a fireproof magazine located on the surface not less than 500 feet from all other buildings in connection with the mine, and such magazine shall be so placed as not to jeopardize the free and safe exit of men from the mine in case of an explosion at the magazine.

ENGINE AND BOILER HOUSE.—(c) Any building erected after the passage of this Act, for the purpose of housing the hoisting engine or boilers at any mine, shall be substantially fireproof, and no boiler-house shall be nearer than sixty feet to the main shaft or other opening, or to any building or inflammable structure connecting therewith.

SEC. 12. TOP MAN AND BOTTOM MAN.—(a) At every shaft where men are hoisted or lowered by machinery, the operator shall station at the top and at the bottom of such shaft a competent man who shall be and is hereby charged with the duty of attending to signals, and is empowered to preserve order and enforce the rules governing the carriage of men on cages. Said top men (man) and bottom man shall be at their respective posts of duty at least half an hour before the hoisting of coal begins in the morning, and remain for half an hour after the hoisting ceases for the day.

SPEED OF CAGES AND OTHER REGULATIONS.—(b) Cages on which men are riding shall not be lifted nor lowered at a rate of speed greater than six hundred feet per minute, except with the written consent of the inspector. No person shall carry any tools, timber or other materials with him on any cage in motion, except for use in repairing the shaft, and no one shall ride on a cage containing either a loaded or empty car. No cage having an unstable or self-dumping platform shall be used for the carriage of men or materials, unless the same is provided with some device by which said platform can be securely locked, and unless it is so locked whenever men or materials are being conveyed thereon. No coal shall be hoisted in any shaft while men are being lowered therein.

RIGHTS OF MEN TO COME OUT.—(c) Whenever men who have finished their day's work, or have been prevented from further work, shall come to the bottom to be hoisted out, an empty cage shall be given them for that purpose, unless there is an available exit by slope or stairway in an escapement shaft, and providing there is no coal at the bottom ready to be hoisted. In case of injury or bona fide illness, a man shall be given a cage at once.

SEC. 13. SAFETY LAMPS.—(a) At every mine in this State, the operator shall provide and keep in condition for use not less than two safety lamps and shall provide and keep as many more as may be required in writing by the State mine inspector. Davy lamps shall not be used for any purpose except testing.

(b) All safety lamps shall be the property of the operator and when not in use shall remain in the custody of the mine manager or other competent person designated by him, who shall clean, fill, trim, examine and deliver same locked and in safe condition to the men when they enter the mine, or at some underground station designated by the mine manager for that purpose. He shall also receive the lamps from the men when they leave the mine or as they pass the underground lamp station at the end of their shift.

The person to whom lamps are thus given shall be responsible for the condition and proper use of the safety lamps while in their possession, and their return to the lamp station.

No safety lamps shall be given to any person for use in a mine nor shall any person use a safety lamp in a mine until said person has given evidence satis-

factory to the mine manager that he understands the proper use thereof and the danger of tampering with the same.

(c) No person except one duly authorized by the mine manager shall have in his possession in any part of the mine where locked safety lamps are used any matches or other means of producing fire, or any lamp key or other instrument usable for the opening of a locked safety lamp. Any person violating the provisions of this section shall be guilty of a misdemeanor and punishable as hereinafter provided relating to misdemeanors under this Act.

(d) Electric lamps which will not ignite explosive gases may be used instead of safety lamps for purposes for which safety lamps are required in this Act except for testing for explosive gas.

SEC. 14. VENTILATION.—(a) At every coal mine there shall be provided and maintained artificial means for supplying an amount of air which shall be not less than 100 cubic feet per minute for each person, and not less than 500 cubic feet per minute for each animal in the mine, measured at the foot of the down-cast and of the upcast; except that in gaseous mines there shall be not less than 150 cubic feet of air per minute for each person in the mine. The inspector shall have power by order in writing to require these quantities to be increased.

(b) The main current of air shall be so split or subdivided as to give a separate current of reasonably pure air to every 100 men at work, and the inspector shall have authority to order, in writing, separate currents for smaller groups of men, if, in his judgment, special conditions render it necessary.

(c) Doors, curtains or brattices shall be placed at such places as may be designated by the mine manager, subject to the approval of the State inspector, for conducting the required amount of air into the working places. Curtains shall not be permanently used in main entries without the written consent of the State mine inspector.

(d) Away from the pillar for the mine bottom, cross-cuts between entries shall be made not more than sixty feet apart without permission of the State inspector of the district and then only in case of "faults." When such consent is given, brattice or other means must be provided within sixty feet of the face to convey the air to the working place until a cross-cut is opened up.

When undercut or sheared, the entry, cross-cut and room-neck may be advanced concurrently, but not more than one cutting shall be shot in the room-neck until the cross-cut is finished; and after the entry has advanced fifteen feet beyond the location of the new cross-cut, only one shot shall be fired in the entry to two in either or both the cross-cut and room-neck at the same shooting time.

When not undercut or sheared, the entry and cross-cut may be advanced concurrently, but no room shall be opened in advance of the last open cross-cut, and after the entry has advanced fifteen feet beyond the location of a new cross-cut only one shot shall be fired in the entry to two in the cross-cut at the same shooting time.

Not more than three shots shall be exploded at one shooting time ahead of the last open cross-cut.

(e) After the taking effect of this Act, the first cross-cut in the first room off any entry shall not be more than 50 feet from the rib of the entry, and the first cross-cut in the second room shall not be more than 80 feet from the rib of the entry, subsequently first cross-cuts in all the rooms shall be not more than 50 and 80 feet respectively from the rib of the entry. Additional cross-cuts shall not be more than 60 feet apart.

(f) All cross-cuts connecting inlet and outlet air courses, except the last one nearest the face, shall be closed with substantial stoppings to be made as nearly air-tight as possible. In the making of the air-tight partitions or stoppings, no loose material or refuse shall be used.

Cross-cuts between rooms, except the one nearest the face, shall be closed sufficiently to carry to the working places the amount of air required by law.

(g) When explosive gas in dangerous quantity is discovered in working places before the men go into the mine in the morning, such gas shall be removed by a special current of air produced by bratticing or from a pipe, before men are permitted to work in such places with other lights than safety lamps.

(h) If, in any mine, the conditions are such that in the judgment of the mine manager or the judgment of the State mine inspector expressed in writing, it is necessary to use safety lamps only in working said mine, other lights shall not be used therein.

(i) The air from the outlet of the stable shall not pass into the intake air current used for ventilating the working parts of the mine.

(j) All doors in mines, used in guiding and directing the ventilating currents shall be hung and adjusted so as to close automatically.

(k) At all doors through which three or more drivers are hauling coal on any one shift, an attendant shall be employed on said shaft (shift) for the purpose of opening and closing said doors when trips of cars are passing to and from the workings: Provided, the mine inspector in case of specially dangerous conditions, shall have power to require in writing that an attendant be placed at doors through which less than three drivers pass. Place for shelter shall be provided at such doorways to protect the attendants from being injured by the cars while attending to their duties; Provided, that in any or all mines, where doors are constructed in such a manner as to open and close automatically, attendants and places for shelter shall not be required.

(l) If the inspector shall find men working without the amount of air required by law, he shall at once notify the mine manager to increase the amount of air in accordance with the law. Upon the failure or refusal of the manager to act promptly, and in all cases where men are endangered by such lack of air, the inspector shall at once order the men affected out of the mine.

(m) In case the passageways, roadways or entries of any mine are so dry that the air becomes charged with dust, the operator of such mine must have such roadways regularly and thoroughly sprayed, sprinkled and cleaned. (Amended. See page 444.)

SEC. 15. REFUGE PLACES—POWER HAULAGE ROADS.—(a) On all single-track haulage roads, where hauling is done by machinery, which roads the persons employed in the mine must use while performing their work or travel on foot to and from their work, there shall be places of refuge on one side not less than 3 feet in depth from the side of the car, and not less than 4 feet long and 5 feet in height and not more than 60 feet apart. On rope-haulage roads, means of signaling shall be established between the haulage engineer and all points on the road. A conspicuous white light must be carried on the front, and a conspicuous red light or white signal board on the rear of every trip or train of pit cars moved by machinery.

REFUGE PLACES—MULE ROADS.—(b) On all haulage roads on which the hauling is done by draft animals, whereon men are obliged to be in the performance of their duties or have to pass to and from their work, there shall be places of refuge not less than 2½ feet in width from the side of the car, and not less than 4 feet long and 5 feet in height and not more than 60 feet apart.

ROOM NECKS AS REFUGE PLACES.—(c) Refuge places shall not be required in entries on which room necks at regular intervals not exceeding 60 feet furnish the required refuge places.

KEEPING REFUGE PLACES CLEAR.—(d) All places of refuge must be kept clear of obstructions and no material shall be stored nor be allowed to accumulate therein. They shall also be whitewashed not less than once in six months.

GOB ON HAULAGE ROADS.—(e) One side of all haulage roads shall be kept clear of refuse or materials, except timbering unless the rib or timbering on such side shall be $2\frac{1}{2}$ feet or more from the rail, but in such case materials or refuse shall not be permitted within $2\frac{1}{2}$ feet of the rail.

SEC. 16. CARS.—When there is more than one link on either end of car, no swinging open-hook coupling shall be used on mine cars installed after this Act shall be in force.

Mine cars in use when this Act shall become in force and effect shall be made to comply with this provision within one year thereafter.

SEC. 17. VOLTAGE.—(a) Trolley wires or other exposed electrical wires shall not carry a voltage above 275 volts.

WIRES CROSSING HAULAGE WAYS.—(b) All trolley and positive feed wires crossing places where persons or animals are required to travel shall be safely guarded or protected from such persons or animals coming in contact therewith.

(c) All terminal ends of positive wires shall be guarded so as to prevent persons inadvertently coming in contact therewith.

SEC. 18. OIL STANDARD.—(a) All illuminating oils used in coal mines shall conform to such specifications as shall be prescribed by the State Mining Board.

BRANDS OF OIL.—(b) All oils sold or offered for sale to be used for illuminating purposes in coal mines shall be stamped or branded upon the original barrel or package in which said oil is furnished to the person, firm or corporation selling or furnishing such oil to show that such oil has been tested and found to conform to the specifications prescribed by the State Mining Board.

PENALTY.—(c) Any person, firm or corporation, either by themselves, agent or employes, selling or offering to sell for illuminating purposes in any mine in this State any oil not complying with the specifications of the State Mining Board as suitable for illuminating purposes as contemplated in this Act, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty five dollars, nor more than one hundred dollars for each offense; and any mine owner or operator or employe of such owner or operator who shall knowingly use, or any mine operator who shall knowingly permit to be used, for illuminating purposes in any mine in this State any oil the use of which is forbidden by this Act, shall be guilty of a misdemeanor, and shall be fined not less than five dollars nor more than twenty-five dollars.

SAMPLING AND TESTING.—(d) The State mine inspectors shall have authority to sample all oil used for illuminating purposes in the mines of this State, or kept on hand for use or for sale at such mines, and for such purpose they may enter upon the premises of any person. It shall be their duty to send to the State Mining Board to be tested a sample of any oil they have reason to suspect does not comply with the specifications of the State Mining Board in regard to illuminating oil for use in mines; and if the said sample of oil is found after suitable tests not to comply with the provisions of this Act, the person using said oil or selling or offering the same for sale, shall be prosecuted in accordance with the provisions of this Act.

SEC. 19. AMOUNT OF POWDER KEPT IN MINE.—(a) No blasting powder, or other explosives, shall be stored in any coal mine, and no workman shall have

at any time in the mine more than thirty-five pounds of black powder nor more than twenty-five pounds of permissible explosives, nor more than three pounds of other high explosives: Provided, that nothing in this section shall be construed to prevent the operator of any mine from taking into the mine, when miners are not therein, and in electrically equipped mines, while the current is turned off on roadways through which it is transported, a sufficient quantity of powder for the reasonable requirements of such mine for the next succeeding working day, but in the interim before such powder is delivered to the men, it shall be kept in a closed receptacle.

Explosives shall not be carried in the same car with tools or other materials.

PLACE AND MANNER OF KEEPING IN THE MINE.—(b) Every person who has powder or other explosives in a mine shall keep the same in a wooden box, securely locked, with hinged lid, and said box shall be kept as far as practicable from the tracks; and all powder boxes shall be kept as far as practicable from each other and each in a secluded place. Black powder and high explosives or caps shall not be kept in the same box. Detonating explosives and detonators shall not be kept in the same box.

MANNER OF HANDLING.—(c) Whenever a workman is about to open a box or keg containing powder or other explosive, and while handling the same, he shall place and keep his lamp at least five feet distant from said explosive, and in such position that the air current can not convey sparks to it, and no person shall approach nearer than five feet to any open box containing an open keg of powder or other explosive with a lighted lamp, lighted pipe or other thing containing fire. No miner, workman or other person shall open any receptacle containing an explosive except by the means of opening the same provided by the manufacturer thereof, and it shall be unlawful for any person to have in his possession in any mine any receptacle containing explosive which has been opened in violation of this act.

QUANTITY OF POWDER IN ONE CHARGE.—(d) The quantity of powder to be used in the preparation of shots shall not, in any case, exceed five (5) standard charges full of powder in coal seams five and one-half ($5\frac{1}{2}$) feet or over in thickness; and shall not, in any case, exceed four (4) standard charges full of powder in coal seams under five and one-half ($5\frac{1}{2}$) feet in thickness.

STANDARD CHARGER.—(e) For the purpose of determining the quantity of powder to be used in the preparation of any given shot, a standard charger is defined and prescribed to be a cylindrical metallic charger not to exceed twelve (12) inches in length and not to exceed one and one-half ($1\frac{1}{2}$) inches in diameter.

DEAD HOLES.—(f) No person shall drill or shoot a dead hole as hereinafter defined. A "dead hole" is a hole where the width of the shot at the point measured at right angles to the line of the hole is so great that the heel is not of sufficient strength to at least balance the resistance at the point. The heel means that part of the shot which lies outside of the powder.

In solid shooting, the width of the shot at the point, in seams of coal 6 feet or less in height, shall not be greater than the height of the coal, and in seams or (c) coal more than 6 feet in thickness, the width of the shot at the point shall, in no case, be more than 6 feet.

In undercut coal, no hole shall be drilled "on the solid" for any part of its length.

MIXED SHOTS.—(g) In no case shall more than one kind of explosive be used in the same drill hole.

COPPER TOOLS.—(h) The needle used in preparing a blast shall be made of copper, and any metallic tamping bar or scraper shall be tipped with at least five (5) inches of copper. A scraper shall not be used for tamping.

TAMPING.—(1) Every blasting hole shall be tamped full from the explosive to the mouth of the hole, and no coal dust or any material that is inflammable or that may create a spark, whether the same shall be wet or dry, shall be used for tamping.

USE OF SQUIBS.—(j) When a squib is used to fire a shot it shall be unlawful to shorten or oil the match of the squib or to ignite it except at the end.

WARNING BEFORE FIRING.—(k) Before firing a shot, the person firing the same shall see that all persons are out of danger from the probable effects of such shot, and shall take measures to prevent any one approaching by shouting "fire" before lighting the same.

NOT MORE THAN ONE SHOT AT A TIME.—(l) Not more than one shot shall be lighted at the same time in any working place unless the firing is done by electricity or by fuses of such length that the intervals between the explosions of any two shots shall be not less than one minute, and in no case shall any shot or shots be fired or lighted which are termed depending or dependent shots, until after the expiration of ten minutes from the successful firing of the relieving shot or shots. When successive shots are to be fired in any working place in which the roof is broken or faulty, the smoke shall be allowed to clear away and the roof examined and made secure between shots.

MISSED SHOTS.—(m) No person shall return to a missed shot, if lighted with a squib, until five (5) minutes have elapsed from the time of lighting the same, or, if lighted with fuse, until the following day; and no person shall return to a missed shot when the firing is done by electricity unless the wires are disconnected from the battery.

(n) No missed shot shall be withdrawn excepting by the use of copper-tipped or wooden tools.

SEC. 20. (a) It shall be the duty of the mine manager:

1. To visit each working place in the mine at least once in two weeks.
2. To provide a suitable checking system whereby the entrance into and departure from the mine of each employe shall be indicated.
3. To have the underground workings of the mine examined by a certificated mine examiner within twelve hours preceding every day upon which the mine is to be operated. Such a mine examiner shall make the examination as provided in this Act, and he shall enter his report thereof before the men are permitted to enter the mine in the morning in a book provided for that purpose, which book shall be kept in some convenient place on top, but not in the engine room or office, for the information of the inspector and other persons interested therein.

4. To examine the mine examiner's report in the morning, and if the working places are reported dangerous, he shall withhold the entrance checks of men working in such places until he has advised such men of the danger and instructed them not to work in such places until the reported danger has been removed, except for the purpose of removing same.

5. When there is to be a night shift mining coal, the mine manager shall require the places in which such night shift are expected to work to be examined for gas, or falls or dangerous roof, by the person in charge of such night shift or some competent person duly authorized by him before the men enter such places for work. The night shift may go into the mine while the night examiner is in the mine, excepting in mines where marsh gas has been detected in dangerous quantities, provided they do not go into the working places until the required examination is made.

Certificated mine examiners shall not be required for the examination preceding the night shift, excepting in mines where marsh gas is detected in dangerous quantities. The night examiner, or examiners, shall make a record of

their examination in a special book kept for that purpose, which shall be kept in some convenient place on top when not in use by the examiner.

6. He shall provide a sufficient number of props, caps and timbers, when demanded, delivered on the miners' cars at the usual place, in suitable lengths and dimensions for the securing of the roof by the miners.

7. He shall see that the cross-cuts are made at proper distances apart, and that the necessary doors, curtains, and brattices are provided to secure the men in the mine the volume of air required by this Act, or by the written demands of the mine inspector; also, that all stoppings along air-ways are properly and promptly built.

8. He shall keep careful watch over all ventilating apparatus and the air currents in the mine, and in case of accident to fan or machinery by which the air currents are stopped or materially obstructed, he shall at once order the withdrawal of the men from the mine and prohibit their return until the required ventilation has been re-established.

9. He shall measure the air current or cause of [the] same to be measured at least once each week at the inlet and outlet, and shall keep a record of such measurements for the information of the mine inspector.

10. He or his assistant shall, at least once a week, examine the roadways leading to the escapement shaft or other openings for the safe exit of men to the surface; and shall make a record of any obstructions to travel he may encounter therein, together with the date of their removal.

11. He shall examine or designate a competent person to examine the hoisting ropes, cages and safety catches every morning, and shall require the ropes to be tested by hoisting the cages before the men are lowered.

12. He must see that the top man and bottom man are on duty and that sufficient lights are maintained at the top and bottom landings when the miners are being hoisted and lowered.

13. The mine manager or his assistant shall be at his post at the mine when the men are lowered into the mine in the morning for work, and shall remain at night until all the men employed during the day shall have been hoisted out.

14. He shall give special attention to and instructions concerning the proper storage and handling of explosives in the mines.

15. He shall see that all dusty haulage roads are thoroughly sprinkled at regular intervals designated by the mine inspector.

(b) The mine manager shall have power:

1. To instruct employees as to their respective duties and to require of all employees obedience to the provisions of the mining law.

2. To prescribe special rules concerning the proper storage and handling of explosives in the mine and concerning the time and manner of placing and discharging the blasting shots, and it shall be unlawful for any miner to fire shots except according to such rules.

3. In mines in which the works are so extensive that all the duties devolving upon the mine manager can not be discharged by one man, competent persons may be designated and appointed as assistants to the mine manager, who shall exercise his functions under the mine managers' instructions.

Sec. 21. CERTIFICATED MINE EXAMINERS.—(a) A certificated mine examiner shall be required at all coal mines. There shall be one or more additional certificated mine examiners whenever required in writing by the State mine inspectors when the conditions are such as to make the employment of such additional mine examiners necessary.

(b) It shall be the duty of the mine examiner:

1. To examine the underground workings of the mine within twelve hours preceding every day upon which the mines is to be operated.

2. When in the performance of his duties, to carry with him a safety lamp in proper order and condition and a rod or bar for sounding the roof.

3. To see that the air current is traveling in its proper course and in proper quantity; and to measure with an anemometer the amount of air passing in the last cross-cut or break-through of each pair of entries, or in the last room of each division in long-wall mines, and at all other points where he may deem it necessary; and to note the results of such measurements in the mine examiner's book kept for that purpose.

4. To inspect all places where men are required in the performance of their duties to pass or to work, and to observe whether there are any recent falls or dangerous roof or accumulations of gas or dangerous obstructions in rooms or roadways; and to examine especially the edges and accessible parts of recent falls and old gobs and air-courses.

5. As evidence of his examination of said rooms and roadways, to inscribe in some suitable place on the walls of each, not on the face of the coal, with chalk, the month and the day of the month of his visit.

6. When working places are discovered in which there are recent falls or dangerous roof or dangerous obstruction, to place a conspicuous mark or sign thereat as notice to all men to keep out; and in case of accumulation of gas, to place at least two conspicuous obstructions across the roadway not less than twenty feet apart, one of which shall be outside the last open cross-cut.

7. Upon completing his examination, to make a daily record of the same in a book kept for that purpose, for the information of the company, the inspector and all other persons interested; and this record shall be made each morning before the miners are permitted to enter the mine.

8. To take into his possession the entrance checks of all men whose working places have been shown by his examination and record to be dangerous, and to give such entrance checks to the mine manager before the men are permitted to enter the mine in the morning.

SEC. 22. It shall be the duty of the hoisting engineer:

1. To be in constant attendance at his engine or boilers at all times when there are workmen underground. Whenever it is the duty of the engineer to attend to the boilers, means for signaling from the shaft bottom to the boiler-room shall be provided.

2. He shall not permit any one except persons duly authorized to enter the engineroom, and he shall hold no communication with any officer of the company or other person while the engine is in motion or while his attention is occupied with the signals.

3. The engineer or some other properly authorized employe shall:

(a) Keep a careful watch over the engines, boilers, pumps, ropes and winding apparatus under his jurisdiction.

(b) See that the boilers under his care are properly supplied with water cleaned and inspected at frequent intervals.

(c) See that the steam pressure does not exceed the limit established by the boiler inspector, and frequently try the try cocks and the safety valves and shall not increase the weights on the same.

(d) See that the steam and water gauges are kept in good order, and if any of the pumps, valves or gauges become deranged or fail to act, promptly report the fact to the proper authority.

4. He shall thoroughly understand the established code of signals, and when he has the signal that men are on the cage he must operate his engine at not to exceed the rate of speed permitted by this Act.

5. He shall permit no one to handle, except in the discharge of duty, or meddle with any machinery under his charge or suffer any one who is not a certificated engineer to operate his engine except for the purpose of learning to operate it, and then only in the presence of the engineer in charge and when men are not on the cage.

SEC. 23. SPECIAL RULES.—(a) It shall be unlawful for any person knowingly or negligently:

1. To injure or tamper with any appliance or machinery.

2. To carry an open light, pipe or fire in any form into any place worked by the light of safety lamps, or within five feet of an open package of explosive.

3. To open any locked safety lamp without permission from the proper authority.

4. To handle or disturb any part of the hoisting machinery without proper authority.

5. To obstruct or cause any obstruction in any air current or to leave open any door or other means provided to control the air current or to perform any act that will interfere with the ventilating current of the mine without permission to do the same from the mine manager.

6. To deface, pull down or destroy any notice board, danger signal, special rule or record book.

(b) No person shall be permitted to or shall enter work in or about a mine or mine buildings, tracks or machinery connected therewith while under the influence of intoxicants.

(c) Every miner shall sound and thoroughly examine the roof of his working place before commencing work, and if he finds loose rock or other dangerous conditions, he shall not work in such dangerous place except to make such dangerous conditions safe. It shall be the duty of the miner to properly prop and secure his place for his own safety with materials provided therefor.

(d) It shall be the duty of every operator to post at some conspicuous point at the entrance to the mine, in such manner that the employes of the mine can read them, rules not inconsistent with this Act, plainly printed in the English language, which shall govern all persons working in the mine. And the posting of such notice, as provided, shall charge all employes of such mine with legal notice of the contents thereof.

(e) It shall be unlawful for any person to disobey any order given in pursuance of this Act, or to enter any place against a danger signal without permission from the mine manager, or to do any wilful act whereby the lives or health of persons working in mines or the security of the mine or the machinery thereof are endangered.

(f) No mine employe shall enter or leave a mine without indicating the fact of entering or leaving said mine by some suitable checking system provided by and under the control of the mine manager.

(g) No person, except the persons necessary to operate the trip or car, shall ride on any loaded car or on the outside of any car, or get on or off a car while in motion.

(h) It shall be unlawful to change, exchange, substitute, alter or remove any number or check or other device or sign used to indicate or identify the person or persons to whom credit or pay is due for the mining of coal in any car or appliance containing the same, with intent to cheat or defraud any other person of the value of his services for mining the coal contained in such car or appliance; and it shall be unlawful for a person with intent to cheat or defraud any other to place any number, check or other device or sign upon any car or other appliance loaded by any other person in or about the mine.

Any violation of this provision shall be deemed a larceny, and upon conviction thereof shall be punishable as provided in the general statutes of Illinois with respect to larceny.

SEC. 24. TEN-FOOT LIMIT.—(a) In no case shall the workings of any mine be driven nearer than 10 feet to the boundary line of the coal rights pertaining to said mine, except for the purpose of establishing an underground communication between contiguous mines, as provided for elsewhere in this Act, or except by mutual agreement in writing between the adjoining owners.

APPROACHING ABANDONED WORKINGS.—(b) Whenever any working place approaches within 50 feet of abandoned workings of which there is a map prepared as required by law and which may contain dangerous accumulations of water or of gas, the operator of said mine shall advance by workings not more than 20 feet wide and maintain in advance of the face a bore hole not less than 10 feet in depth and one hole in each rib of the working place, 10 feet in depth, which side holes shall be drilled so as to make an angle of not less than forty-five degrees with the direction of the rib. If there is not a map of the abandoned workings, the holes heretofore provided for shall be drilled when the new workings are within 100 feet of where the old workings are supposed to be.

SEC. 25. DUTY OF INSPECTOR.—(a) Any loss of life or personal injury in or about any coal mine shall be reported without delay by the person having charge of said mine to the State Mine Inspector of the district in which the mine is located, and the said inspector, in case of injury, if he deem necessary from the facts reported, and in all cases of loss of life, shall go immediately to the scene of said accident and render every possible assistance to those in need.

Every operator of a coal mine shall make or cause to be made and preserve for the information of the State Mine Inspector, upon uniform blanks furnished by said inspector, a record of all deaths and all injuries sustained by any of his employees in the pursuance of their regular occupations.

CORONER'S INQUEST.—(b) If any person is killed in or about a mine, the operator shall also notify the coroner of the county, or in his absence or inability to act, any justice of the peace of said county, who shall hold an inquest concerning the cause of such death. The State Mine Inspector may question or cross-question any witness testifying at the inquest.

INVESTIGATION BY INSPECTION.—(c) The State Mine Inspector shall make a personal investigation as to the nature and cause of all serious accidents within his jurisdiction. He shall make a record of the circumstances attending the same, as developed by the coroner's inquest and his own personal investigation, which record shall be preserved in the files of his office, and a copy thereof filed with the State Mining Board. To enable him to make such investigation he shall have power to compel the attendance of witnesses and to administer oaths or affirmations to them, and the cost of such investigations shall be paid by the county in which such accident has occurred, in the same manner as the costs of coroner's inquests are paid.

SEC. 26. STRETCHERS AND BLANKETS.—At every mine, it shall be the duty of the operator thereof to keep always on hand, and at some readily accessible place, a properly constructed stretcher, a woolen and waterproof blanket, and a roll of bandages in good condition and ready for immediate use for binding, covering and carrying any one who may be injured at the mine. When 100 or more men are employed at any mine, two stretchers and two woolen and two waterproof blankets, and a corresponding number of bandages, shall be provided and kept on hand. At mines where fire-damp is generated, there shall also be provided and kept in store a suitable supply of linseed or olive oil, for use in case where men are burned by an explosion.

NOTE.—Section 27 is under the appropriate title, Weighing Coal. See page 393.

SEC. 28. BOYS AND WOMEN.—No boy under the age of sixteen years, and no woman or girl of any age, shall be permitted to do any manual labor in or about any mine, and before any boy can be permitted to work in any mine he must produce to the mine manager or operator thereof an affidavit from his parent or guardian or next of kin, sworn and subscribed to before a justice of the peace or notary public, that he, the said boy, is sixteen years of age.

The parent, guardian or next of kin shall submit in connection with said affidavit, a certificate of birth, a baptismal certificate, a passport or other official or religious record of the boy's age or duly attested transcript thereof, which certificate or transcript thereof shall, for the purposes of this Act, establish the age of said boy.

Any person swearing falsely in regard to the age of a boy shall be guilty of perjury, and shall be punished as provided in the general statutes of the State pertaining to perjury.

SEC. 29. PENALTIES.—(a) Any wilful neglect, refusal or failure to do the things required to be done by any section, clause or provision of this Act, on the part of the person or persons herein required to do them, or any violation of any of the provisions or requirements hereof, or any attempt to obstruct or interfere with any inspector in the discharge of the duties herein imposed upon him, or any refusal to comply with the instructions of an inspector given by authority of this Act shall be deemed a misdemeanor punishable by a fine not exceeding five hundred dollars, or by imprisonment in the county jail for a period not exceeding six months, or both, at the discretion of the court: Provided, that in addition to the above penalties, in case of failure of any operator to comply with the provisions of this Act in relation to the sinking of escapement shafts and the ventilation of mines, the State's attorney for the county in which such failure occurs, or any other attorney, in case of his neglect to act promptly shall proceed against such operator by injunction without bond, to restrain him from continuing to operate such mine until all legal requirements shall have been fully complied with.

(b) Any inspector who shall discover that any section of this Act, or part thereof, is being neglected or violated, shall order immediate compliance therewith, and, in case of continued failure to comply, shall have power to stop the operation of the mine, or remove any offending person or persons from the mine until the law is complied with.

(c) For any injury to person or property, occasioned by any wilful violation of this Act, or wilful failure to comply with any of its provisions, a right of action shall accrue to the party injured, for any direct damages sustained thereby; and in case of loss of life by reason of such wilful violation or wilful failure as aforesaid, a right of action shall accrue to the personal representatives of the person so killed for the exclusive benefit of the widow and next of kin of such person and to any other person or persons who were, before such loss of life, dependent for support on the person or persons so killed, for a like recovery of damages for the injuries sustained by reason of such loss of life or lives not to exceed the sum of ten thousand dollars: Provided, that every such action for damages in case of death shall be commenced within one year after the death of such person: And, provided further, that the amount recovered by the personal representative of the person so killed shall be distributed to the widow and next of kin of such person in the proportion provided by law in relation to the distribution of personal property left by persons dying testate: Provided, that if and whenever there shall be in force in this State a statute or statutes providing for compensation to workmen for all injuries received in the course of their employment, the provisions thereof shall apply in lieu of the right of action for damages provided in this Act.

SEC. 30. DEFINITION OF TERMS—MINE.—(a) Where used in this Act, the words "mine" and "coal mine" are intended to signify any and all parts of the property of a mining plant, on the surface or underground, which contribute, directly or indirectly, under one management, to the mining or handling of coal.

EXCAVATION OR WORKINGS.—(b) The words "excavation" and "workings" signify any or all parts of a mine excavated or being excavated, including shafts, slopes, tunnels, entries, rooms and working places whether abandoned or in use.

SHAFT.—(c) The term "shaft" means any vertical opening through the strata which is or may be used for purposes of ventilation or escapement, or for the hoisting or lowering of men and material in connection with the mining of coal.

SLOPE.—(d) The term "slope" means any inclined way in or to a seam of coal to be used for the same purposes as a shaft.

DRIFT.—(e) The term "drift" means any practically horizontal way in or to a seam of coal to be used for the same purpose as a shaft.

OPERATOR.—(f) The term "operator" as applied to the party in control of a mine in this Act, signifies the person, firm or body corporate who is the immediate proprietor as owner or lessee of the plant, and, as such, responsible for the condition and management thereof.

MINE MANAGER.—(g) The "mine manager" is the person who is charged with the general direction of the underground work.

MINE EXAMINER.—(i) The "mine examiner" is the person charged with the examination of the underground workings of the mine before the miners are permitted to enter it in the morning.

SEC. 31. That an Act entitled, "An Act to revise the laws in relation to coal mines and subjects relating thereto, and providing for the health and safety of persons employed therein, approved April 18, 1899, and in force July 1, 1899," with amendments to July 1, 1910; and also (See page 212.)

An Act entitled, "An Act to prohibit the use of certain oils in coal mines and penalties for infraction of same," approved April 30, 1895; also (See page 354.)

An Act entitled, "An Act concerning the use of powder in coal mines," approved and in force May 14, 1903, as amended by an Act approved May 24, 1907, in force July 1, 1907; also (See page 15.)

An Act entitled, "An Act to provide for the weighing of coal at the mines, and to repeal a certain Act therein named," approved June 17, 1887, in force July 1, 1887, be and each of said Acts is hereby repealed. (See page 389.)

FIRST AMENDATORY ACT.

LAWS 1913, P. 412.

JUNE 27, 1913.

AN ACT to amend sections 1, 2, 3, 5, 6, 10, 11, 14, 16, 18, 19, 20 and 21 of an Act entitled "An Act to revise the laws in relation to coal mines and subjects relating thereto, and providing for the health and safety of persons employed therein," approved June 6, 1911, in force July 1, 1911.

SECTION 1. Be it enacted, etc.: That sections 1, 2, 3, 5, 6, 10, 11, 14, 16, 18, 19, 20, and 21 of an Act entitled, "An Act to revise the laws in relation to coal mines and subjects relating thereto, and providing for the health and safety of persons employed therein," approved June 6, 1911, in force July 1, 1911, be and the same are hereby amended so as to read as follows:

NOTE.—Sections 1 to 6, inclusive, are under the title, Miners' Examining Board—State Board, page 77.

SEC. 10. GATES AT LANDINGS.—(a) The upper and lower landing at the top of each shaft, and the opening of each intermediate seam from or to the shaft, shall be kept clear and free from loose materials, and shall be protected with automatic or other gates, such gates to be of good, serviceable construction for

the purpose for which they are designed, namely, to prevent either men or materials from falling into the shaft. At the top landing cage supports, where necessary, must be carefully set and adjusted so as to securely hold the cage when at rest.

LIGHTS ON LANDINGS.—(b) Whenever the hoisting or lowering of men occurs before daylight or after dark, or when the landing at which men take or leave the cage is at all obscured by steam or otherwise, there must always be maintained at such landing a light sufficient to show the landing and surrounding objects distinctly. Likewise, as long as there are men underground in any mine the operator shall maintain a good and sufficient light at the bottom of the shaft thereof, so that persons coming to the bottom may clearly discern the cage and objects in the vicinity.

HOISTING EQUIPMENT.—(c) Every shaft in which men are hoisted and lowered must be equipped with a cage, or cages, fitted to guide-rails running from the top to the bottom. Said cages must be safely constructed; they must be furnished with sheet-metal covers adequate to protect persons riding thereon from falling objects; they must be equipped with safety catches. Every cage on which persons are carried must be fitted with iron bars or rings in proper place and sufficient number to furnish a secure hand-hold for every person permitted to ride thereon. There shall be attached to every cage on which men are, or may be, hoisted or lowered, a horn or other device with which signals can be given on the cage. Hoisting ropes when socketed at the cage shall be cut off and resocketed at least once each six months and a notice shall be posted in the engine room giving the date when the rope was installed and when resocketed.

(d) In connection with every hoisting engine used for hoisting or lowering of men there shall be provided as follows:

BRAKE ON DRUM.—(1) A good and sufficient brake on the drum, so adjusted that it may be operated by the engineer without leaving his post at the levers.

FLANGES.—(2) Flanges attached to the sides of the drum, with a distance when the whole rope is wound on the drum of not less than 4 inches between the outer layer of rope and the greatest diameter of the flange.

ROPE FASTENINGS.—(3) One end of each hoisting rope shall be well secured on the drum, and at least three laps of the same shall remain on the drum when the cage is at rest at the lowest caging place in the shaft.

The lower end of each rope shall be securely fastened to the cage by suitable sockets and chains.

INDICATOR.—(4) An index dial or indicator that plainly shows the engineer at all times the true position of the cages in the shaft.

SIGNALS.—(e) At every mine where men are hoisted and lowered by machinery there shall be provided means of signaling to and from the bottom man, the top man and the engineer. The signal system shall consist of a tube or tubes, or wire enclosed in wood or iron pipes, through which signals shall be communicated by electricity, compressed air or other pneumatic devices, or by ringing a bell. When compressed air or other pneumatic devices are used for signaling, provision must be made to prevent signal from repeating or reversing. The following signals shall be used at mines where signals are required:

FROM THE BOTTOM TO THE TOP.—One ring or whistle shall signify to hoist coal or the empty cage, and also to stop either when in motion.

Two rings or whistles shall signify to lower cage.

Three rings or whistles shall signify that men are coming up or going down; when return signal is received from the engineer the men shall get on the cage and the proper signal to hoist or lower shall be given.

Four rings or whistles shall signify to hoist slowly, implying danger.

Five rings or whistles shall signify accident in the mine and a call for a stretcher.

Six rings or whistles shall signify hold cage perfectly still until signaled otherwise.

From top to bottom, one ring or whistle shall signify: All ready, get on cage.

Two rings or whistles shall signify: Send away empty cage.

Provided, that the operator of any mine may, with the consent of the inspector, add to this code of signals in his discretion. The code of signals in use at any mine shall be conspicuously posted at the top and at the bottom of the shaft, and the engine room at some point in front of the engineer when standing at his post.

GAUGE.—(f) Every boiler shall be provided with a glass water gauge and not less than three try cocks and also a steam gauge, except that where two or more boilers are equipped with a steam drum properly connected with the boilers to indicate the steam pressure and without any valves between said boilers and the steam drum, the steam gauge may be placed in said steam drum; and other steam gauge shall be attached to the steam pipe in the engine house, each to be placed in such a position that the engineer and the fireman can readily see what pressure is being carried. Such steam gauges shall be kept in good order, and adjusted and be tested as often, at least, as every six months.

SAFETY VALVES.—(g) Every boiler shall be provided with a safety valve with weights or springs properly adjusted, except that where two or more boilers are equipped with a steam drum properly connected with the boilers to indicate the steam pressure and without any valves between said boilers and the steam drum, the safety valve may be placed in said steam drum.

INSPECTION OF BOILERS.—(h) All boilers used in generating steam in and about coal mines or sinking shafts shall be kept in good order, and the operator of every coal mine where steam boilers are in use shall have said boilers thoroughly examined and inspected by a competent boilermaker or other qualified person, not an employee of said operator, as often as once in every six months, and oftener if the mine inspector shall so require in writing, and the result of every such inspection shall be reported on suitable blanks to said mine inspector.

RUN-AROUND AT BOTTOM.—(i) At every underground landing where men enter or leave the cage and where men must pass from one side of the cage to the other there shall be a safe passageway, free from obstruction and dry as possible, around the shaft not less than three feet wide for the use of men only; and animals or cars shall not be taken through such passageway while men are passing or desirous of passing through such passageway.

REFUGE PLACE ON SHAFT BOTTOM.—(j) A refuge place or places for men coming out at the close of the day's work shall be provided off the main bottom of cageroom in shaft mines, at a place or places and of such size as shall be approved by the State mine inspector. Such place or places shall be not more than 400 feet from the shaft where men are hoisted, and shall be kept free from loose material. When leaving such refuge places to be hoisted out, the men shall be governed by the rules of the mine.

OBSTRUCTIONS IN SHAFT.—(k) No accumulation of ice or obstructions of any kind shall be permitted in any shaft in which men are hoisted or lowered; nor shall any dangerous gases or steam be discharged into said shaft in such quantities or at such times as to interfere with the safe passage of men. All surface or other water which flows therein shall be conducted by rings or otherwise to receptacles provided for the same in such manner as to prevent

water from falling upon men while passing into or out of the mine or while in the discharge of their duties about the shaft bottom.

INSPECTION.—(1) All shafts by which men enter or leave the mine, and the passageways leading thereto, or to the works of a contiguous mine used as an escapement shaft shall be carefully examined at least once each week that the mine is operating and the date and findings of such an examination entered promptly in the books kept at the mine for that purpose. If obstructions to the free passage of men are found, their location and nature shall be stated in said report. Such obstructions shall be promptly removed.

SEC. 11. BUILDINGS ON THE SURFACE.—(a) After the passage of this Act, all buildings and structures erected over a shaft, slope or drift mouth, and within one hundred (100) feet of the same shall be of metal, rock, clay, cement, clay or cement products, or a combination of the same. All fan houses, tops or air and escape shafts and fan drifts shall also be constructed of the above mentioned materials or a combination thereof. In connection with above construction, wood may be used only for floors, windows, doors, or the frames for the same: Provided, that this paragraph shall not apply to mines employing ten (10) men or less.

OIL AND OTHER EXPLOSIVES.—(b) No oils or similarly inflammable materials shall be stored within one hundred (100) feet of any hoisting or escapement shaft, nor in any mine.

All lubricating oil used in coal mines shall be contained in closed receptacles. In the mine, oil shall not be heated over a fire or lamp.

All explosive materials shall be stored in a fireproof magazine located on the surface not less than five hundred (500) feet from all other buildings in connection with the mine, and such magazine shall be so placed as not to jeopardize the free and safe exit of men from the mine in case of an explosion at the magazine.

ENGINE AND BOILER-HOUSE.—(c) Any building erected after the passage of this Act, for the purpose of housing the hoisting engine or boilers at any mine, shall be substantially fireproof, and no boiler-house shall be nearer than sixty feet to the main shaft or other opening, or to any building or inflammable structure connecting therewith.

SEC. 14. VENTILATION.—(a) At every coal mine there shall be provided, supplied and maintained an amount of air which shall not be less than one hundred (100) cubic feet per minute for each person, and not less than five hundred (500) cubic feet per minute for each animal in the mine, measured at the foot of the downcast and of the upcast; except that in gaseous mines there shall be not less than one hundred and fifty (150) cubic feet of air per minute for each person in the mine. The inspector shall have power by order in writing to require these quantities to be increased.

(b) The main current of air shall be so split or subdivided as to give a separate current of reasonably pure air to every 100 men at work, and the inspector shall have authority to order, in writing, separate currents for smaller groups of men, if, in his judgment, special conditions render it necessary.

(c) Doors, curtains or brattices shall be placed at such places as may be designated by the mine manager, subject to the approval of the State inspector, to conduct into the working places an amount of air sufficient to render the working places reasonably free from deleterious air of every kind.

(d) Away from the pillar for the mine bottom, cross-cuts between entries shall be made not more than sixty feet apart without permission of the State inspector of the district and then only in case of "faults." When such consent

is given, brattice or other means must be provided within sixty feet of the face to convey the air to the working place until a cross-cut is opened up.

When undercut or sheared, the entry, cross-cut and room-neck may be advanced concurrently, but not more than one cutting shall be shot in the room-neck until the cross-cut is finished; and after the entry has advanced fifteen feet beyond the location of the new cross-cut, only one shot shall be fired in the entry to two in either or both the cross-cut and room-neck at the same shooting time.

When not undercut or sheared, the entry and cross-cut may be advanced concurrently, but no room shall be opened in advance of the last open cross-cut, and after the entry has advanced fifteen feet beyond the location of a new cross-cut only one shot shall be fired in the entry to two in the cross-cut at the same shooting time.

Not more than three shots shall be exploded at one shooting time ahead of the last open cross-cut.

(e) After the taking effect of this Act, the first cross-cut between all rooms off any entry shall not be more than sixty (60) feet from the rib of the entry. Additional cross-cuts shall not be more than sixty (60) feet apart.

(f) All cross-cuts connecting inlet and outlet air courses, except the last one nearest the face, shall be closed with substantial stoppings to be made as nearly air-tight as possible. In the making of the air-tight partitions or stoppings, no loose material or refuse shall be used.

Cross-cuts between rooms, except the one nearest the face, shall be closed sufficiently to carry to the working places the amount of air required by law.

(g) All possible care and diligence shall be exercised in the examination of working places, especially for the investigation and detection of explosive gases therein, and where found, such gas shall be removed by a special current of air produced by bratticing or from a pipe, before men are permitted to work in such places with other lights than safety lamps.

(h) If, in any mine, the conditions are such that in the judgment of the mine manager or the judgment of the State mine inspector expressed in writing, it is necessary to use safety lamps only in working said mine, other lights shall not be used therein.

(i) The air from the outlet of the stable shall not pass into the intake air current used for ventilating the working parts of the mine.

(j) All doors in mines, used in guiding and directing the ventilating currents shall be hung and adjusted so as to close automatically.

(k) At all doors through which three or more drivers are hauling coal on any one shift, an attendant shall be employed on said shaft [shift] for the purpose of opening and closing said doors when trips of cars are passing to and from the workings: Provided, the mine inspector in case of specially dangerous conditions, shall have power to require in writing that an attendant be placed at doors through which less than three drivers shall pass. Places for shelter shall be provided at such door-ways to protect the attendants from being injured by the cars while attending to their duties: Provided, that in any or all mines, where doors are constructed in such a manner as to open and close automatically, attendants and places for shelter shall not be required.

(l) If the inspector shall find men working without the amount of air required by law, he shall at once notify the mine manager to increase the amount of air in accordance with the law. Upon the failure or refusal of the manager to act promptly, and in all cases where men are endangered by such lack of air, the inspector shall at once order the men affected out of the mine.

(m) In case the passageways, roadways or entries of any mine are so dry that the air becomes charged with dust, the operator of such mine must have such roadways regularly and thoroughly sprayed, sprinkled or cleaned.

(n) At all mines employing over one hundred (100) men underground, and in all mines generating fire damp, the ventilating fan shall be run both day and night; at all mines employing less than one hundred (100) men underground, the fan shall be run at its usual speed for six (6) hours before men go into the mine to work. A recording pressure gauge shall be maintained in connection with each fan at all times: Provided, nothing in this clause shall apply to mines employing ten men or less.

SEC. 16. CARS.—(a) When there is an open hook coupling on either end of the car, the hook and links must be attached so that when hanging down, the coupling will be clear of the ties and rails.

Mine cars in use when this Act shall become in force and effect shall be made to comply with this provision within one year thereafter.

(b) In mines opened after the passage of this Act, all mine cars shall be equipped with a bumper or bumpers on each end, which shall project from beyond the end of the car not less than four inches in length. This shall not be held to apply to mines employing ten men or less.

SEC. 18. OIL STANDARD.—(a) All illuminating oils or other illuminants used in coal mines shall conform to such specifications as shall be prescribed by the State Mining Board.

BRANDS OF OIL.—(b) All oils sold or offered for sale to be used for illuminating purposes in coal mines shall be stamped or branded upon the original barrel or package in which said oil is furnished to the person, firm or corporation selling or furnishing such oil to show that such oil has been tested and found to conform to the specifications prescribed by the State Mining Board.

PENALTY.—(c) Any person, firm or corporation, either by themselves, agents or employees, selling or offering to sell for illuminating purposes in any mine in this State any oil not complying with the specifications of the State Mining Board as suitable for illuminating purposes as contemplated in this Act, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty-five dollars, nor more than one hundred dollars for each offense; and any mine owner or operator or employee of such owner or operator who shall knowingly use, or any mine operator who shall knowingly permit to be used, for illuminating purposes in any mine in this State any oil the use of which is forbidden by this Act, shall be guilty of a misdemeanor, and shall be fined not less than five dollars nor more than twenty-five dollars.

SAMPLING AND TESTING.—(d) The State mine inspectors shall have authority to sample all oil used for illuminating purposes in the mines of this State, or kept on hand for use or for sale at such mines, and for such purpose they may enter upon the premises of any person. It shall be their duty to send to the State Mining Board to be tested a sample of any oil they have reason to suspect does not comply with the specifications of the State Mining Board in regard to illuminating oil for use in mines; and if the said sample of oil is found after suitable tests not to comply with the provisions of this Act, the person using said oil or selling or offering the same for sale, shall be prosecuted in accordance with the provisions of this Act.

SEC. 19. AMOUNT OF POWDER KEPT IN MINE.—(a) No blasting powder, or other explosives, shall be stored in any coal mine, and no workman shall have at any time in the mine more than thirty-five pounds of black powder nor more than twenty-five pounds of permissible explosives, nor more than three pounds of other high explosives: Provided, that nothing in this section shall be construed

to prevent the operator of any mine from taking into the mine, when miners are not therein, and in electrically equipped mines, while the current is turned off on roadways through which it is transported, a sufficient quantity of powder for the reasonable requirements of such mine for the next succeeding working day. The delivery of powder into coal mines shall be during the interval after the shot firers have come out of the mine and prior to the entry of the day shift into the mine in the morning; but in the interim before such powder is delivered to the men, it shall be kept in a closed receptacle.

Explosives shall not be carried in the same car with tools or other materials.

PLACE AND MANNER OF KEEPING IN THE MINE.—(b) Every person who has powder or other explosives in a mine shall keep the same in a wooden box, securely locked, with hinged lid, and said box shall be kept as far as practicable from the track; and all powder boxes shall be kept as far as practicable from each other and each in a scheduled place. Black powder and high explosives or caps shall not be kept in the same box. Detonating explosives and detonators shall not be kept in the same box.

MANNER OF HANDLING.—(c) Whenever a workman is about to open a box or keg containing powder or other explosive, and while handling the same, he shall place and keep his lamp at least five feet distant from said explosive, and in such position that the air current can not convey sparks to it, and no person shall approach nearer than five feet to any open box containing an open keg of powder or other explosive with a lighted lamp, lighted pipe or other thing containing fire. No miner, workman or other person shall open any receptacle containing an explosive except by the means of opening the same provided by the manufacturer thereof, and it shall be unlawful for any person to have in his possession in any mine any receptacle containing explosive which has been opened in violation of this Act.

QUANTITY OF POWDER IN ONE CHARGE.—(d) The quantity of powder to be used in the preparation of shots shall not, in any case, exceed five (5) standard chargers full of powder in coal seams five and one-half ($5\frac{1}{2}$) feet or over in thickness; and shall not, in any case, exceed four (4) standard chargers full of powder in coal seams under five and one-half ($5\frac{1}{2}$) feet in thickness.

STANDARD CHARGER.—(e) For the purpose of determining the quantity of powder to be used in the preparation of any given shot, a standard charger is defined and prescribed to be a cylindrical metallic charger not to exceed twelve (12) inches in length and not to exceed one and one-half ($1\frac{1}{2}$) inches in diameter.

DEAD HOLES.—(f) No person shall drill or shoot a dead hole as hereinafter defined. A "dead hole" is a hole where the width of the shot at the point measured at right angles to the line of the hole is so great that the heel is not of sufficient strength to at least balance the resistance at that point. The heel means that part of the shot which lies outside of the powder.

In solid shooting, the width of the shot at the point, in seams of coal 6 feet or less in height, shall not be greater than the height of the coal, and in seams of coal more than 6 feet in thickness, the width of the shot at the point shall, in no case, be more than 6 feet.

In undercut coal, no hole shall be drilled "on the solid" for any part of its length.

MIXED SHOTS.—(g) In no case shall more than one kind of explosive be used in the same drill hole.

COPPER TOOLS.—(h) The needle used in preparing a blast shall be made of copper, and any metallic tamping-bar or scraper which is used for placing explosives for shots shall be tipped with at least five (5) inches of copper. A scraper shall not be used for tamping.

TAMPING.—(i) Every blasting hole shall be tamped full from the explosive to the mouth of the hole, and no coal dust or any material that is inflammable or that may create a spark, whether the same shall be wet or dry, shall be used for tamping.

USE OF SQUIBS.—(j) When a squib is used to fire a shot it shall be unlawful to shorten or oil the match of the squib or to ignite it except at the end.

WARNING BEFORE FIRING.—(k) Before firing a shot, the person firing the same shall see that all persons are out of danger from the probable effects of such shot, and shall take measures to prevent any one approaching by shouting "fire" before lighting the same.

NOT MORE THAN ONE SHOT AT A TIME.—(l) Not more than one shot shall be lighted at the same time in any working place unless the firing is done by electricity or by fuses of such length that the interval between the explosions of any two shots shall be not less than one minute, and in no case shall any shot or shots be fired or lighted which are termed depending or dependent shots, until after the expiration of ten minutes from the successful firing of the relieving shot or shots. When successive shots are to be fired in any working place in which the roof is broken or faulty, the smoke shall be allowed to clear away and the roof examined and made secure between shots.

MISSED SHOTS.—(m) No person shall return to a missed shot, if lighted with a squib, until five (5) minutes have elapsed from the time of lighting the same, or, if lighted with fuse, until the following day; and no person shall return to a missed shot when the firing is done by electricity unless the wires are disconnected from the battery.

(n) No missed shot shall be withdrawn excepting by the use of copper tipped or wooden tools.

SEC. 20. (a) It shall be the duty of the mine manager :

1. To visit each working place in the mine at least once in two weeks.
2. To provide a suitable checking system whereby the entrance into and departure from the mine of each employee shall be indicated.
3. To have the underground workings of the mine examined by a certificated mine examiner within eight hours preceding every day upon which the mine is to be operated. Such a mine examiner shall make the examination as provided in this Act, and he shall enter his report thereof with indelible pencil or ink in a well bound or properly protected loose leaf book provided for that purpose, before the men are permitted to enter the mine in the morning. This book shall be kept in some convenient place on top, but not in the engine room, for the information of the inspector and other persons interested therein.
4. To examine the mine examiner's report in the morning, and if the working places are reported dangerous, he shall withhold the entrance checks of men working in such places until he has taken every proper precaution to advise such men of the danger and instructed them not to work in such places until the reported danger has been removed, except for the purpose of removing mine.
5. When there is to be a night shift mining coal, the mine manager shall require the places in which such night shift are expected to work to be examined for gas, or falls or dangerous roof, by the person in charge of such night shift or some competent person duly authorized by him before the men enter such places for work. The night shift may go into the mine while the night examiner is in the mine, excepting in mines where marsh gas has been detected in dangerous quantities, provided they do not go into the working places until the required examination is made.

Certificated mine examiners shall not be required for the examination preceding the night shift, excepting in mines where marsh gas is detected in dan-

gerous quantities. The night examiner, or examiners, shall make a record of their examination in a special book kept for that purpose, which shall be kept in some convenient place on top when not in use by the examiner.

6. He shall provide a sufficient number of props, caps and timbers, when demanded, delivered on the miners' cars at the usual place, in suitable lengths and dimensions for the securing of the roof by the miners.

7. He shall see that the cross-cuts are made at proper distances apart, and that the necessary doors, curtains, and brattices are provided to secure the men in the mine the volume of air required by this Act, or by the written demands of the mine inspector; also, that all stoppings along air-ways are properly and promptly built.

8. He shall keep careful watch over all ventilating apparatus, and the air currents in the mine, and in case of accident to fan or machinery by which the air currents are stopped or materially obstructed, he shall at once order the withdrawal of the men from the mine and prohibit their return until the required ventilation has been reestablished.

9. He shall measure the air current or cause the same to be measured at least once each week at the inlet and outlet, and shall keep a record of such measurements for the information of the mine inspector.

10. He or his assistants shall, at least once a week, examine the roadways leading to the escapement shaft or other openings for the safe exit of men to the surface; and shall make a record of any obstructions or other unsafe conditions existing therein, and cause the same to be promptly removed.

11. He shall examine or designate a competent person to examine the hoisting ropes, cages, and safety catches every morning, and shall require the ropes to be tested by hoisting the cages before the men are lowered.

12. He must see that the top man and bottom man are on duty and that sufficient lights are maintained at the top and bottom landings when the miners are being hoisted and lowered.

13. The mine manager or his assistant shall be at his post at the mine when the men are lowered into the mine in the morning for work, and shall remain at night until all the men employed during the day shall have been hoisted out.

14. He shall give special attention to and instructions concerning the proper storage and handling of explosives in the mines.

15. He shall see that all dusty haulage roads are regularly and thoroughly sprayed, sprinkled or cleaned at regular intervals when the health and safety of the men in the mine demand.

(b) The mine manager shall have power:

1. To instruct employees as to their respective duties and to require of all employees obedience to the provisions of the mining law.

2. To prescribe special rules concerning the proper storage and handling of explosives in the mine and concerning the time and manner of placing and discharging the blasting shots, and it shall be unlawful for any miner to fire shots except according to such rules.

3. In mines in which the works are so extensive that all the duties devolving upon the mine manager cannot be discharged by one man, competent persons may be designated and appointed as assistants to the mine manager, who shall exercise his functions under the mine managers' instructions.

SEC. 21. CERTIFICATED MINE EXAMINERS.—(a) A certificated mine examiner shall be required at all coal mines. There shall be one or more additional certificated mine examiners whenever required in writing by the State mine inspectors when the conditions are such as to make the employment of such additional mine examiners necessary.

(b) It shall be the duty of the mine examiner :

1. To examine the underground workings of the mine within eight hours preceding every day upon which the mine is to be operated.

2. When in the performance of his duties, to carry with him a safety lamp in proper order and condition and a rod or bar for sounding the roof.

3. To see that the air current is traveling in its proper course and in proper quantity ; and to measure with an anemometer the amount of air passing in the last cross-cut or break-through of each pair of entries, or in the last room of each division in long-wall mines, and at all other points where he may deem it necessary ; and to note the result of such measurements in the mine examiner's book kept for that purpose.

4. To inspect all places where men are required in the performance of their duties to pass or to work, and to observe whether there are any recent falls or dangerous roof or accumulations of gas or dangerous conditions in rooms or roadways ; and to examine especially all roadways leading to escapement shafts or other openings for the safe exit of men to the surface, the edges and accessible parts of recent falls and old gobs, and air-courses.

5. As evidence of his examination of said rooms and roadways, to inscribe in some suitable place on the walls of each, not on the face of the coal, with chalk, the month and the day of the month of his visit.

6. When working places are discovered in which there are recent falls or dangerous roof or dangerous conditions, to place a conspicuous mark or sign thereat as notice to all men to keep out ; and in case of accumulation of gas, to place at least two conspicuous obstructions across the roadway not less than twenty feet apart, one of which shall be outside the last open cross-cut.

7. Upon completing his examination, to make a daily record of the same in a book kept for that purpose, for the information of the company, the inspector and all other persons interested ; and this record shall be made each morning before the miners are permitted to enter the mine.

8. To take into his possession the entrance checks of all men whose working places have been shown by his examination and record to be dangerous, and to give such entrance checks to the mine manager before the men are permitted to enter the mine in the morning.

SECOND AMENDATORY ACT.

LAWS 1915, P. 505.

JUNE 23, 1915.

AN ACT to amend sections 2, 3, 5, 6, 7, 9, 10, 15, 21 and 25 of an Act entitled, "An Act," etc. (same as in section 1).

SECTION 1. Be it enacted, etc. : That sections 2, 3, 5, 6, 7, 9, 10, 15, 21 and 25 of an Act entitled, "An Act to revise the laws in relation to coal mines and subjects relating thereto, and providing for the health and safety of persons employed therein," approved June 6, 1911, in force July 1, 1911, approved June 26, 1913, in force July 1, 1913, be and the same are hereby amended so as to read as follows :

NOTE.—The amended sections 2, 3, 5, and 6 are under the title, Miners' Examining Board—State Mining Board. See page 84.

SEC. 7. MAPS REQUIRED.—(a) The operator of every coal mine in the State shall make, or cause to be made, an accurate map of plan of such mine, drawn to a scale not smaller than 200 feet to the inch. All measurements shall be in feet and decimals of a foot. On such maps shall appear the name of the State, county and township in which the mine is located, the designation of the mine, the name of the company or owner, the certificate of the mining

engineer or surveyor as to the accuracy and date of the survey, the north point and the scale to which the drawing is made.

SURFACE SURVEY.—(b) Such map or plan shall accurately show the surface boundary lines of the coal rights pertaining to each mine, and all sections or quarter-section lines or corners within the same; the lines of town lots and streets; the tracks and side-tracks of all railroads and the location of all wagon roads, rivers, streams, ponds, location and depth of holes drilled for oil, gas or water that penetrate a workable coal seam, and the elevation above the coal seam of any stream or body of water that might endanger the mine.

UNDERGROUND SURVEY.—(c) For the underground workings, said maps shall show all shafts, slopes, tunnels or other openings to the surface or to the workings of a contiguous mine; all excavations, entries, rooms and cross-cuts; the location of the fan or furnace and the direction of the air currents; the location of pumps, hauling engines, engine planes, abandoned works, fire walls and standing water; and the outcrop line of the seam, if any, on the property. The general outline of all areas in which pillars have been drawn shall be indicated on the map. Each underground map also shall show, in feet and decimals thereof, the elevation of the floor of the coal at reasonable intervals on the main entries and cross entries from the bottom of the shaft to the face of the workings; such elevations shall be referred to the floor of the coal at the bottom of the hoisting shaft.

MAP FOR EVERY SEAM.—(d) A separate and similar map, drawn to the same scale, shall be made of each and every seam, which, after the passage of this Act, shall be worked in any mine, and the maps of all such seams shall show all shafts, inclined planes or other passageways connecting the same.

SEPARATE MAP FOR THE SURFACE.—(e) A separate map also shall be made of the surface whenever the surface buildings, lines or objects are so numerous as to obscure the details of the mine workings if drawn upon the same sheet with them, and in such case the surface map shall be drawn on transparent cloth or paper, so that it can be laid upon the map of the underground workings, and thus indicate the relation of lines and objections on the surface to the excavations of the mine.

THE DIP.—(f) Each map shall also show by profile drawing and measurements, in feet and decimals thereof, the rise and dip of the seam from the bottom of the shaft in either direction to the face of the workings.

COPIES FOR INSPECTORS AND RECORDERS.—(g) The original or true copies of all such maps shall be kept in the office at the mine, and one true copy thereof shall be furnished to the State inspector of mines for the district in which said mine is located, and one shall be filed in the office of the recorder of the county in which the mine is located, within thirty days after the completion of the same. The maps so delivered to the inspector and to the recorder shall remain in the custody of said inspector and recorder during their respective terms of office, and be delivered by them to their successors in office. They shall be kept at the office of the inspector and of the recorder, and be open to the examination of all persons interested in the same, but such examination shall be made only in the presence of the inspector or the recorder. Neither the inspector nor the county recorder shall permit any copies of the same to be made without the written consent of the operator or the owner of the property.

The county recorder shall properly index such map as part of the title record of the property affected. A copy of each map and extensions to the same shall be furnished the mine rescue station commission for use in connection with rescue work only.

ANNUAL SURVEYS.—(h) An extension of the last preceding survey of every mine in active operation shall be made once in every twelve months prior to July 1, of every year, and the results of said survey, with the date thereof shall be promptly and accurately entered upon the original maps and all copies of the same, so as to show all changes in plan or new work in the mine, and all extensions of the old workings to the most advanced face or boundary of said workings which have been made since the last preceding survey. The State inspector, the county recorder and the rescue station commission shall be furnished with a copy of the said extended map or of the extensions to said map.

ABANDONED MINES.—(i) When any coal mine is worked out or is about to be abandoned or indefinitely closed, the operator of the same shall make, or cause to be made, a final survey of such mine; to show the entire worked out area when the mine was closed, and the results of the same shall be duly extended on all maps of the mine and copies thereof herein required to be filed. The shaft, slope or drift openings into any such abandoned mine shall be kept securely enclosed.

NOTE.—Clauses (j) and (k) are under the appropriate headings on page 50.

SEC. 9. TWO PLACES OF EGRESS.—(a) For every coal mine in this State, whether worked by shaft, slope or drift, there shall be provided and maintained, in addition to the hoisting shaft, or other place of delivery, an escapement shaft or opening to the surface, or an underground communicating passageway with a contiguous mine, so that there shall be at least two distinct and available means of egress to all persons employed in such coal mines.

DISTANCE FROM MAIN SHAFT.—(b) In mines sunk after the passage of this Act, the first escapement shaft shall be separated from the main shaft by such extent of natural strata as may be agreed upon by the inspector of the district and the owner of the property, but the distance between the main shaft and the escapement shaft shall not be less than 500 feet nor more than 2,000 feet: Provided, that in mines employing ten (10) men or less (.) the distance between the hoisting shaft and the escapement shaft shall not be less than two hundred and fifty (250) feet.

UNLAWFUL TO EMPLOY MORE THAN TEN MEN.—(c) It shall be unlawful to employ underground, at any one time, more men than in the judgment of the inspector are necessary to complete speedily the connections with the escapement shaft or adjacent mine; and said number must not exceed ten men at any one time for any purpose in said mine until such escapement or connection is completed. The time allowed for completing such escapement shaft or making such connections with an adjacent mine, as is required by the terms of this Act, shall be three months for shafts 200 feet or less in depth, and six months for shafts less than 500 feet and more than 200 feet, and nine months for all other mines, slopes or drifts, or connections with adjacent mines. The time to date in all cases from the hoisting of coal from the hoisting shaft: Provided, that in mines employing ten (10) men or less, the time for completing the escapement shaft shall not be more than six months from the time of hoisting coal.

STAIRWAYS OR CAGES.—(d) The escapement shaft at every mine opened after the passage of this Act shall be equipped with a substantial stairway, set at an angle not greater than forty-five degrees, which shall be provided with handrails, and with platforms or landings at each turn of the stairway. If any escapement shaft, at the time of the passage of this Act, be equipped with a cage for hoisting men, such shaft, cage and all equipment used in connection therewith must conform to the requirements of this Act in reference to the

hoisting and lowering of men. Where an escapement way is connected to a compartment in which coal is hoisted in such manner that men using the escapement way are endangered by falling coal or by themselves falling into such hoisting compartment, the State mine inspector shall have power to order suitable protection against such dangers.

PASSAGEWAYS TO ESCAPEMENT.—(e) Such escapement shaft or opening or communication with a contiguous mine as aforesaid, shall be constructed in connection with every seam of coal worked in such mine, and all passageways communicating with the escapement shaft or place of exit, from the main hauling ways to said place of exit, shall be maintained free of obstruction at least 5 feet high and 5 feet wide. Such passageways must be so graded and drained that it will be impossible for water to accumulate in any depression or dip of the same in quantities sufficient to obstruct the free and safe passage of men. No passageway to an escapement shaft shall pass through a stable. At all points where the passageway to the escapement shaft or other place of exit is intersected by other roadways or entries, conspicuous signboards shall be placed, indicating the direction it is necessary to take in order to reach such place of exit.

COMMUNICATIONS WITH ADJACENT MINES.—(f) When operators of adjacent mines have, by agreement, established underground communications between said mines as an escapement outlet for the men employed in both, the intervening doors shall remain unlocked and ready at all times for immediate use. When such communication has once been established between contiguous mines, the operator of either shall not close the same without the consent of the operator of the contiguous mine and of the State inspector for the district: Provided, that when either operator desires to abandon mining operations the expense and duty of maintaining such communication shall devolve upon the party continuing operations and using the same.

SEC. 10. GATES AT LANDINGS.—(a) The upper and lower landing at the top of each shaft, and the opening of each intermediate seam from or to the shaft, shall be kept clear and free from loose materials, and shall be protected with automatic or other gates, such gates to be of good, serviceable construction for the purpose for which they are designed, namely, to prevent either men or materials from falling into the shaft. At the top landing cage supports, where necessary, must be carefully set and adjusted so as to securely hold the cage when at rest.

LIGHTS ON LANDINGS.—(b) Whenever the hoisting or lowering of men occurs before daylight or after dark, or when the landing at which men take or leave the cage is at all obscured by steam or otherwise, there must always be maintained at such landing a light sufficient to show the landing and surrounding objects distinctly. Likewise, as long as there are men underground in any mine the operator shall maintain a good and sufficient light at the bottom of the shaft thereof, so that persons coming to the bottom may clearly discern the cage and objects in the vicinity.

HOISTING EQUIPMENT.—(c) Every shaft in which men are hoisted and lowered must be equipped with a cage, or cages, fitted to guide-rails running from the top to the bottom. Said cages must be safely constructed; they must be furnished with sheet-metal covers adequate to protect persons riding thereon from falling objects; they must be equipped with safety catches. Every cage on which persons are carried must be fitted with iron bars or rings in proper place and sufficient number to furnish a secure hand-hold for every person permitted to ride thereon. There shall be attached to every cage on which men are, or may be, hoisted or lowered, a horn or other device with which signals can be

given on the cage. Hoisting ropes when socketed at the cage shall be cut off and resocketed at least once each six months and a notice shall be posted in the engine room giving the date when the rope was installed and when resocketed.

(d) In connection with every hoisting engine used for hoisting or lowering of men there shall be provided as follows:

BRAKE OR DRUM.—(1) A good and sufficient brake on the drum, so adjusted that it may be operated by the engineer without leaving his post at the levers.

FLANGES.—(2) Flanges attached to the sides of the drum, with a distance when the whole rope is wound on the drum of not less than 4 inches between the outer layer of rope and the greatest diameter of the flange.

ROPE FASTENINGS.—(3) One end of each hoisting rope shall be well secured on the drum, and at least three laps of the same shall remain on the drum when the cage is at rest at the lowest caging place in the shaft.

The lower end of each rope shall be securely fastened to the cage by suitable sockets and chains.

INDICATOR.—(4) An index dial or indicator that plainly shows the engineer at all times the true position of the cages in the shaft.

SIGNALS.—(e) At every mine when men are hoisted and lowered by machinery there shall be provided means of signaling to and from the bottom man, the top man and the engineer. The signal system shall consist of a tube or tubes, or wire encased in wood or iron pipes, through which signals shall be communicated by electricity, compressed air or other pneumatic devices, or by ringing a bell. When compressed air or other pneumatic devices are used for signaling, provision must be made to prevent signal from repeating or reversing. The following signals shall be used at mines where signals are required:

FROM THE BOTTOM TO THE TOP.—One ring or whistle shall signify to hoist coal or the empty cage, and also to stop either when in motion.

Two rings or whistles shall signify to lower cage.

Three rings or whistles shall signify that men are coming up or going down; when return signal is received from the engineer the men shall get on the cage and the proper signal to hoist or lower shall be given.

Four rings or whistles shall signify to hoist slowly, implying danger.

Five rings or whistles shall signify accident in the mine and a call for a stretcher.

Six rings or whistles shall signify hold cage perfectly still until signaled otherwise.

FROM TOP TO BOTTOM, one ring or whistle shall signify: All ready, get on cage.

Two rings or whistles shall signify: Send away empty cage.

Provided, that the operator of any mine may, with the consent of the inspector, add to this code of signals in his discretion. The code of signals in use at any mine shall be conspicuously posted at the top and at the bottom of the shaft, and the engine room at some point in front of the engineer when standing at his post.

GAGES.—(f) Every boiler shall be provided with a glass water gauge and not less than three try cocks and also a steam gauge, except that where two or more boilers are equipped with a steam drum properly connected with the boilers to indicate the steam pressure and without any valves between said boilers and the steam drum, the steam gauge may be placed in said steam drum; and other steam gauge shall be attached to the steam pipe in the engine house, each to be placed in such a position that the engineer and the fireman can readily see what pressure is being carried. Such steam gauges shall be kept in good order, and adjusted and be tested as often, at least, as every six months.

SAFETY VALVES.—(g) Every boiler shall be provided with a safety valve with weights or springs properly adjusted, except that where two or more boilers are equipped with a steam drum properly connected with the boilers to indicate the steam pressure and without any valves between said boilers and the steam drum, the safety valves may be placed in said steam drum.

INSPECTION OF BOILERS.—(h) All boilers used in generating steam in and about coal mines or sinking shafts shall be kept in good order, and the operator of every coal mine where steam boilers are in use shall have said boilers thoroughly examined and inspected by a competent boilermaker or other qualified person, not an employee of said operator, as often as once in every six months, and oftener if the mine inspector shall so require in writing, and the result of every such inspection shall be reported on suitable blanks to said mine inspector.

RUN-AROUND AT BOTTOM.—(i) At every underground landing where men enter or leave the cage and where men must pass from one side of the cage to the other there shall be a safe passageway, free from obstruction and dry as possible, around the shaft not less than three feet wide for the use of men only; and animals or cars shall not be taken through such passageway while men are passing or desirous of passing through such passageway.

REFUGE PLACE ON SHAFT BOTTOM.—(j) A refuge place or places for men coming out at the close of the day's work shall be provided off the main bottom of cageroom in shaft mines, at a place or places and of such size as shall be approved by the State mine inspector. Such place or places shall be not more than 400 feet from the shaft where men are hoisted, and shall be kept free from loose material. When leaving such refuge places to be hoisted out, the men shall be governed by the rules of the mine.

OBSTRUCTION IN SHAFT.—(k) No accumulation of ice or obstructions of any kind shall be permitted in any shaft in which men are hoisted or lowered; nor shall any dangerous gases or steam be discharged into said shaft in such quantities or at such times as to interfere with the safe passage of men. All surface or other water which flows therein shall be conducted by rings or otherwise to receptacles provided for the same in such manner as to prevent water from falling upon men while passing into or out of the mine or while in the discharge of their duties about the shaft bottom.

INSPECTION.—(l) All shafts by which men enter or leave the mine, and the passageways leading thereto, or to the works of a contiguous mine used as an escapement shaft shall be carefully examined throughout at least once each week that the mine is operating and the date and findings of such an examination entered promptly in the books kept at the mine for that purpose. A daily visit to the bottom of all such escapement shafts shall be made by the mine examiner, and if obstructions to the free passage of men are found, their location and nature shall be stated in such report. Such obstructions shall be promptly removed.

SEC. 15. REFUGE PLACES—POWER HAULAGE ROADS.—(a) On all singletrack haulage roads, where hauling is done by machinery, which roads the persons employed in the mine must use while performing their work or travel on foot to and from their work, there shall be places of refuge on one side not less than 3 feet in depth from the side of the car, and not less than 4 feet long and 5 feet in height and not more than 60 feet apart. On all such roads constructed after the passage of this Act, the refuge places shall be placed on the opposite side from the electric power wire. On rope-haulage roads, means of signaling shall be established between the haulage engineer and all points on the road. A conspicuous light shall be carried on the front, and a gong,

conspicuous red light or white signal board on the rear of every trip or train of pit cars moved by machinery.

REFUGE PLACES—MULE ROADS.—(b) On all haulage roads on which the haulage is done by draft animals, whereon men are obliged to be in the performance of their duties or have to pass to and from their work, there shall be places of refuge not less than $2\frac{1}{2}$ feet in width from the side of the car, and not less than 4 feet long and 5 feet in height and not more than 60 feet apart.

ROOM-NECKS AS REFUGE PLACES.—(c) Refuge places shall not be required in entries on which room-necks at regular intervals not exceeding 60 feet furnish the required refuge places.

KEEPING REFUGE PLACES CLEAR.—(d) All places of refuge must be kept clear of obstructions and no material shall be stored nor allowed to accumulate therein. They shall also be whitewashed not less than once in six months.

GOB ON HAULAGE ROADS.—(e) One side of all haulage roads shall be kept clear of refuse or materials, except timbering, unless the rib or timbering on such side shall be $2\frac{1}{2}$ feet or more from the rail. But in such case materials or refuse shall not be permitted within $2\frac{1}{2}$ feet of the rail.

SEC. 21. CERTIFICATED MINE EXAMINERS.—(a) A certificated mine examiner shall be required at all coal mines. There shall be one or more additional certificated mine examiners whenever required in writing by the State mine inspectors when the conditions are such as to make the employment of such additional mine examiners necessary.

(b) It shall be the duty of the mine examiner:

1. To examine the underground workings of the mine within eight hours preceding the time the day shift goes on duty, every day upon which the mine is to be operated, excepting that when in the judgment of the State mine inspector expressed in writing to the coal operator, a mine generates explosive gas in dangerous quantities, a State mine inspector shall require the mine to be examined for gas in such manner and at such shorter intervals than eight hours before the time the day shift goes on duty every day upon which the mine is to be operated, as may be necessary to ensure the safety of the men working in such mine.

2. When in the performance of his duties, to carry with him a safety lamp in proper order and condition and a rod or bar for sounding the roof.

3. To see that the air current is traveling in its proper course and in proper quantity; and to measure with an anemometer the amount of air passing in the last cross-cut or break-through of each pair of entries, or in the last room of each division in long-wall mines, and at all other points where he may deem it necessary; and to note the result of such measurements in the mine examiner's book kept for that purpose.

4. To inspect all places where men are required in the performance of their duties to pass or to work, and to observe whether there are any recent falls or dangerous roof or accumulations of gas or dangerous conditions in rooms or roadways; and to examine especially all roadways leading to escapement shafts or other openings for the safe exit of men to the surface, the edges and accessible parts of recent falls and old gobs and air-courses.

5. As evidence of his examination of said rooms and roadways, to inscribe in some suitable place on the walls of each, not on the face of the coal, with chalk, the month and the day of the month of his visit.

6. When working places are discovered in which there are recent falls or dangerous roof or dangerous conditions, to place a conspicuous mark or sign thereat as notice to all men to keep out; and in case of accumulation of gas, to place at least two conspicuous obstructions across the roadway not less than twenty feet apart, one of which shall be outside the last open cross-cut.

7. Upon completing his examination to make a daily record of the same in a book kept for that purpose, for the information of the company, the inspector and all other persons interested; and this record shall be made each morning before the miners are permitted to enter the mine.

8. To take into his possession the entrance checks of all men whose working places have been shown by his examination and record to be dangerous, and to give such entrance checks to the mine manager before the men are permitted to enter the mine in the morning.

SEC. 25. DUTY OF INSPECTOR.—(a) Any loss of life or personal injury in or about any coal mine shall be reported without delay by the person having charge of said mine to the State mine inspector of the district in which the mine is located, and the said inspector, in case of injury, if he deem necessary from the facts reported, and in all cases of loss of life, shall go immediately to the scene of said accident and render every possible assistance to those in need.

Every operator of a coal mine shall make or cause to be made and preserve for the information of the State mine inspector, upon uniform blanks furnished by said inspector, a record of all deaths and all injuries sustained by any of his employees in the pursuance of their regular occupations.

CORONER'S INQUEST.—(b) If any person is killed in or about a mine, the operation shall also notify the coroner of the county or in his absence or inability to act, any justice of the peace of said county who shall hold an inquest concerning the cause of such death. The State mine inspector may question or cross-question any witness testifying at the inquest.

INVESTIGATION BY INSPECTOR.—(c) The State mine inspector shall make a personal investigation as to the nature and cause of all serious accidents in mines under his supervision. He shall make a record of the circumstances attending the same, as developed by the coroner's inquest, and by his own personal investigation, which record shall be preserved in the files of his office, and a copy thereof filed with the State Mining Board within thirty days from the conclusion of such investigation, and such report shall thereupon become part of the record of such board. To enable him to make such investigation he shall have power to compel the attendance of witnesses and to administer oaths or affirmations, to them, and the cost of such investigation shall be paid by the county in which such accident has occurred.

Any person having charge or custody of the records, files, documents, reports and proceedings of the State Mining Board provided to be made, filed or kept under the provisions of the laws of Illinois, in case of serious accident shall furnish to any person or persons interested, a certified copy thereof upon application, and upon the payment or tender of fees at such rates as are now paid in this State to the clerks of circuit courts in counties of the second class for certified copies of records, and refusal to furnish such copies shall constitute a misdemeanor.

ANNOTATIONS.

NOTE.—These annotations cover the general-revision act of 1899, all acts amendatory thereof, the revised mining act of 1911, and the amendatory act of 1915. The annotations cover the parts of the statutes included under the titles: Mine Inspectors; Mine Managers; and Miners' Examining Boards. See pages 48, 54, 62, 92.

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1. STATUTE ENACTED PURSUANT TO CONSTITUTION.

The statute of 1899, entitled "An act to revise the law in relation to coal mines and subjects relating thereto, and providing for the health and safety of persons employed therein," was enacted in compliance with the constitutional duty imposed upon the legislature by section 29 article 4 of the constitution of 1870.

Brunnworth v. Kerens-Donnewald Coal Co., 260 Ill. 202, p. 217.

The mining statutes were enacted in obedience to the constitutional mandate and the mining act can not be held to be unconstitutional because it applies to conditions common to other occupations. The purpose of the constitutional amendment was to place mining laws in a class to themselves, and such laws when enacted should be liberally construed for the protection of miners.

Cook v. Big Muddy-Carterville Min. Co., 249 Ill. 41;

Pate v. Gus Blair-Big Muddy Coal Co., 252 Ill. 198;

Mengelkamp v. Consolidated Coal Co., 173 Ill. App. 370, p. 376.

The act of 1911, like the former mines and miners' act, was passed in obedience to the statutory mandate.

Havron v. Shoal Creek Coal Co., 184 Ill. App. 117, p. 119.

This act was passed under a mandate of the constitution making it the duty of the legislature to pass laws for protection of operative miners. It grew out of the public wish that every precaution should be taken against the unusual hazards and dangers incident to the inhabitancy of mines, and was in-

tended to protect with all known expediency every person whose occupation required him to labor in these subterranean rooms and roadways.

Fulton v. Wilmington Star Min. Co., 133 Federal 193.

See *Denk Bros. Coal & Coke Co. v. Lucas*, 127 Ill. App. 61, p. 65.

The general assembly has carried out the constitutional requirement and from time to time has legislated for the protection of miners.

Wilmington Star Min. Co. v. Fulton, 205 U. S. 60, p. 71;

Fulton v. Wilmington Star Min. Co., 133 Federal 193, p. 197.

2. MINING HAZARDS—LEGISLATION—CLASSIFICATION.

The general assembly may classify persons for the purpose of legislation provided the classification is not arbitrarily made and is based upon some difference which appears to have a just and proper relation to the classification. Operative coal miners are placed in a class by themselves by the constitution itself, and the validity of laws enacted to provide for their health and safety can not be disputed. They are exposed by their occupation to extraordinary hazards and perils to which other laborers are not exposed.

Rogers v. St. Louis-Carterville Coal Co., 254 Ill. 104, p. 109.

The conditions and hazards under which the transportation of coal in a mine is conducted are different from the conditions prevailing in transportation elsewhere, and men engaged in such occupation constitute a class by themselves.

Mengelkamp v. Consolidated Coal Co., 259 Ill. 305, p. 310.

3. CONSTITUTIONALITY OF STATUTE—POLICE POWER OF STATE.

This act does not deny to the mine operator the equal protection of laws, nor does it take their property without due process of law in violation of the Federal Constitution.

Consolidated Coal Co. v. People, 186 Ill. 134;

Commonwealth v. Plymouth, 232 Pa. St. 141, p. 148.

Every precaution should be taken against the unusual hazards and dangers incident to the inhabitancy of mines. It was intended by the act of 1899 to protect with all known expedients every person whose occupation required him to labor in these subterranean rooms and roadways.

Wilmington Star Min. Co. v. Fulton, 205 U. S. 60, p. 71.

The act of 1899 is not unconstitutional on the ground that it compels a mine operator to employ a duly certificated mine manager or mine examiner. The requirement is not repugnant to the fourteenth amendment to the Federal Constitution. The subject is peculiarly within the police power of the State and the enactment of this requirement was an appropriate exercise of such power. The use and enjoyment of mining property is subject to the reasonable exercise of the police power of the State and the rights, privileges, and immunities of a mine owner as a citizen of the United States are not invaded by the requirement that he employ a certified mine manager or inspector, and the imposition of liability upon the owner for the violation of such regulations as these are but the appropriate exercise of the police power and are not wanting in due process.

Wilmington Star Min. Co. v. Fulton, 205 U. S. 60, p. 73;

Fulton v. Wilmington Star Min. Co., 133 Federal 193, p. 196.

The expense incurred by reason of the statute is imposed because of the peculiar dangers of the surrounding situation and subserves not only the interest of the miners but alike protects the mine owner and hence the payment

of the fee would be properly imposed upon the mine owner without violating any provision of the constitution.

Chicago-Wilmington etc. Coal Co. v. People, 181 Ill. 270;
Commonwealth v. Plymouth Coal Co., 232 Pa. St. 141, p. 148.

The liability imposed upon the mine operator to respond in damages for the willful failure of a mine manager or mine examiner to comply with the requirements of the statute is not in harmony with the principles of the common law applicable to the relation of master and servant, but a State may change and modify those principles in accord with its conception of public policy; and the court can not infer that the selection of mine owners as a class upon which to impose the liability in question was purely arbitrary and without reason.

Wilmington Star Min. Co. v. Fulton, 205 U. S. 60, p. 74;
Fulton v. Wilmington Star Min. Co., 133 Federal 193, p. 197.

The act of 1911 is not unconstitutional or invalid on the ground that the bill was not printed before its final passage by the House of Representatives as the Journal of the House contains evidence that the bill was printed before its final passage and that the act was legally passed.

Frey v. Kerens-Donnewald Coal Co., 271 Ill. 121, p. 125.

4. PURPOSE OF STATUTE.

The statute of 1899 was enacted for the purpose of providing for the health and safety of persons employed in a mine and to permit a person to enter a mine where there are dangers obvious and apparent is clearly contrary to the letter of the spirit although the mine examiner failed to report such dangerous conditions, otherwise a mine operator or owner would not be liable for an injury resulting from a dangerous condition in his mine, of which he had actual or personal knowledge, unless the mine examiner had previously reported to him that such dangerous condition did in fact exist.

Olson v. Kelly Coal Co., 143 Ill. App. 269, p. 272.

The scope and purpose of the act of 1899 is found in the enacting clause which is "to revise the laws in relation to coal mines and subjects relating thereto and provide for the health and safety of persons employed therein." By plain and expressed terms the statute is limited in its application to coal mines and persons employed therein.

Moore v. Dering Coal Co., 147 Ill. App. 95, p. 97.

The purpose of this statute was to throw additional safeguards about the lives, limbs, and health of miners, and in cases of conscious violations of the statute by operators, to relieve operative miners so far as it is possible to do so by legislative enactments from the consequences of their own folly or want of foresight.

Kellyville Coal Co. v. Strine, 117 Ill. App. 115, p. 123.
See Catlett v. Young, 143 Ill. 74.

The purpose of the law was to protect the lives and health of men engaged in a dangerous occupation and the many duties required to be performed by mine managers and mine examiners must be fully performed, whether the mine is large or small. But if they are so performed whether by one or two men, the spirit of the law is fully complied with.

People v. Kolb Coal Co., 151 Ill. App. 469, p. 472.

The purpose of the statute requiring the employment of an examiner having the proper certificate was to make the employment of a competent person as certain as it can be made by law.

Davis v. Illinois Collieries Co., 232 Ill. 284, p. 290.

The object of the statute was safety to the employees and the question of whether or not it will make a job for an employee or cost the mine owner the price of a job is not to be considered in the interpretation of the statute.

Pate v. Gus Blair-Big Muddy Coal Co., 158 Ill. App. 278, p. 583.

The passage of the amendatory act of 1907, section 21, clause (b), is attributed to a desire on the part of the legislature to make the statute plain for the protection of drivers on hauling roads or gangways on which hauling is done by draft animals, but on which men are not required to pass to and from their work.

Kepler v. Applegate & Lewis Coal Co., 153 Ill. App. 582, p. 585.

The act of 1911, considering all of its sections, was intended by the legislature as a general revision of the law applicable to coal mines and places relating thereto as manifested by the title of the act, and it was designed as a substitute for the act of 1899. Substantially all the subjects covered by the old act are found in the new, but in the new act the whole subject has been rewritten with no attempt to follow the arrangement of the matter in the former act. While differing in detail, both acts relate to the same general subject and are intended to accomplish the same general purposes.

Merlo v. Johnston City & Big Muddy Coal Min. Co., 258 Ill. 328, p. 332.

5. CONSTRUCTION AND AMENDMENT.

Where a statute is unambiguous and rights have accrued under it, the legislature may not afterwards place upon that statute a construction that will deprive a party of rights already vested. The passage of the amendatory act of 1907 can be attributed to a desire on the part of the legislature to make the statute plain for the protection of such men as drivers on hauling roads or gangways on which hauling is done by draft animals but on which men do not pass to and from their work.

Kepler v. Applegate & Lewis Coal Co., 153 Ill. App. 582, p. 585.

6. MINE—MEANING—APPLICATION OF STATUTE.

The words "mine" and "coal mine" in section 34 are intended to signify any and all parts of the property of a mining plant on the surface or under the ground which contribute directly or indirectly under one management to the mining or handling of coal.

Spring Valley Coal Co. v. Greig, 129 Ill. App. 386, p. 391.

The general assembly did not intend this act to be effective only beneath the surface, but it meant by this act to legislate with reference to all parts of the mining plant which contribute directly or indirectly to the mining of coal and to the handling of it from the mine both below and above the ground.

Spring Valley Coal Co. v. Greig, 129 Ill. App. 386, p. 392.

The words "mine" and "coal mine" used in this section signify any and all parts of the property of a mining plant on the surface and underground which contribute directly and indirectly under one manager to the mining and handling of coal.

Moore v. Dering Coal Co., 242 Ill. 84, p. 87;

Moore v. Dering Coal Co., 147 Ill. App. 95, p. 97;

Pruett v. O'Gara Coal Co., 165 Ill. App. 479, p. 480;

Hukinson v. La Salle County Carbon Coal Co., 168 Ill. App. 147, p. 150.

See *Spring Valley Coal Co. v. Greig*, 226 Ill. 511.

The statute defines the word "mine" and "coal mine" to mean any and all parts of the property of a mining plant on the surface or under the ground

which contributes directly or indirectly under one management to the mining and hauling of coal. The provisions of this act require that coal, rock, and other material brought up by way of the shaft out of the earth shall be moved away from the shaft as they shall be brought up out of the rooms and entries of the mine.

Spring Valley Coal Co. v. Greig, 226 Ill. 511, p. 516.
See Moore v. Dering Coal Co., 147 Ill. App. 95, p. 98.

Many of the provisions of the statute relating to the examination and safeguarding of conditions on the top and appliances for the removal of coal when brought up out of a shaft must be regarded as much a part of the mine as the appliances for bringing it up. No distinction can be made between appliances used for removing coal to the place where it is dumped for shipment and those used for removing it to places where it is dumped for retail trade, as either is a part of the mining operations and come under the requirements to remove the coal to some place where it will not render unsafe or dangerous to employees any conditions at the top of the mine.

Spring Valley Coal Co. v. Greig, 226 Ill. 511, p. 517;
Hakanson v. La Salle County Carbon Coal Co., 265 Ill. 165, p. 166.

The machinery and appliances used in facilitating the work of removing coal and other material brought out of the mine and in complying with the requirements of the statute as to conditions in which the top shall be kept are embraced within the statutory definition of a coal mine.

Spring Valley Coal Co. v. Greig, 226 Ill. 511, p. 517;
Pate v. Gus Blair-Big Muddy Coal Co., 158 Ill. App. 578, p. 583.

Proof that a mining company owning coal lands caused two shafts some 200 feet apart to be sunk to and through the vein of coal to a depth of about 540 feet and thereafter employed underground a force of more than 20 miners, causing entries to be driven in every direction, constructing roadways and air courses, all such air courses and entries being of a length of more than 2,000 feet, laying tracks and switches, mining and taking out about 2,000 tons of coal, is sufficient to show a mine and to bring the plant and mine within the operation of the Illinois mines and miners' act and to render the operator liable for the death of a miner caused by falling material because of the failure of the operator to equip the cage, as required by the statute, with a proper and sufficient covering to protect miners riding thereon.

Hakanson v. La Salle County Carbon Coal Co., 265 Ill. 165, p. 166.
Hakanson v. La Salle County Carbon Coal Co., 168 Ill. App. 147, p. 150.
See Swengel v. La Salle County Carbon Coal Co., 182 Ill. App. 623, p. 630.

7. MINER—MEANING—APPLICATION OF STATUTE.

The term "miner" in its ordinarily accepted meaning includes all classes of laborers who work in a mine, whether digging coal, timbering, or making places safe.

Driza v. Jones & Adams Coal Co., 171 Ill. App. 139, p. 145.

The Miners' Act must receive a liberal construction for the protection of those employed in mines; but aside from this the statute is broad enough to include an employee in the mine whose work contributed directly to the mining of coal in that his duties were to repair and keep in good running order the machines used for cutting down the coal.

Smith v. Consolidated Coal Co., 183 Ill. App. 572, p. 576.

The act of 1911 does not include in its terms the tippie at a coal mine and does not include a person not an operative coal miner and not exposed to any

dangers or perils peculiar to the mining business, and does not include persons who do not possess any disability, attributes, or qualification to mark him or persons of his trade as special subjects of legislation. A carpenter working on buildings owned by a coal company is not different in any respect from carpenters working on buildings or elevators not owned by coal companies and used for their purposes. The statute must be construed to include only operative coal miners and not to employees merely of a coal mining company who were not exposed to any dangers or perils peculiar to the mining business.

Rogers v. St. Louis-Carterville Coal Co., 254 Ill. 104, p. 110.

See *Donaldson v. Spring Valley Coal Co.*, 175 Ill. App. 224, p. 229.

It is immaterial whether the evidence in an action by a miner for damages for injuries shows a willful failure on the part of the mine operator to comply with the statutory requirements, where the alleged injuries are not within the purport of the statute. Unless the injured employee is within the class contemplated by the statute and within the purport and protection for which the law was enacted he is without remedy in an action under the statute.

Lumaghi v. Voytalla, 101 Ill. App. 112;

Rosin v. Big Muddy Coal & Iron Co., 128 Ill. App. 128, p. 132;

Halberg v. Citizens Coal Mining Co., 149 Ill. App. 412, p. 415.

S. SHAFT—MEANING—DUTY TO MAINTAIN.

The term "shaft" used in section 34 is much more restricted in its signification than the term "mine" and the two are not synonymous. The term "coal shaft" might be used in an instrument in such manner as to evidently intend to be understood as meaning "coal mine" notwithstanding the actual difference in the distinction and the common understanding of the two terms.

Pruett v. O'Gara Coal Co., 165 Ill. App. 470, p. 480.

See *Hakanson v. La Salle County Carbon Coal Co.*, 168 Ill. App. 147, p. 150;

Swengel v. La Salle County Carbon Coal Co., 182 Ill. App. 623, p. 630.

A place where miners in the employ of a mine owner are engaged in digging a hole in the ground, which, when completed, it was the purpose to equip and use as a "shaft" for one or more of the purposes specified in the statute, does not come within the definition of the word "shaft" in section 34 of the statute.

Cox v. Mt. Olive & Staunton Coal Co., 127 Ill. App. 24, p. 25;

Springside Coal Min. Co. v. Grogan, 53 Ill. App. 60;

Moore v. Dering Coal Co., 147 Ill. App. 95, p. 98.

The maintaining of an escapement shaft as required by the statute is for the express purpose of furnishing available means of egress to all persons employed in the mine. The egress for which a shaft is provided by this section to be maintained is confined to persons employed in the coal mine, and unless limited to this class of persons an obstruction of such a shaft would not be a violation of the statute. If the statute is enacted for the purpose of protecting a particular class of persons, then an indictment for its violation should be sufficiently definite to show that the persons referred to therein were within the class prescribed by the statute.

People v. Canton, 186 Ill. App. 448, p. 450.

There is no specific penalty prescribed for obstructing an air shaft, and the penalty imposed is in general terms for violating any of the provisions of the act. Section 29 is not intended to apply to a mere temporary obstruction. A top boss of a coal mine can not be held criminally liable and punished therefor on the charge that he willfully caused the escapement shaft at a mine to be locked up and obstructed, where it is not charged that the mine was in opera-

tion or that the shaft was so constructed that there was not a place of egress to all persons employed in the mine.

People v. Cannon, 186 Ill. App. 448, p. 451.

It was not intended by section 3 to impose upon men who were working for wages at a coal mine the duty of maintaining an escapement shaft; but it devolves upon the operator, and if he fails to maintain it or remove any obstruction thereto, the punishment should be upon the operator and not upon some employee.

People v. Cannon, 186 Ill. App. 448, p. 452.

Under section 33 of this act, which authorizes parents to sue for the death of a son, killed because of the failure of a coal-mine operator to comply with the statute in failing to have flanges attached to the sides of the drum in connection with the engine used for hoisting men, as required by section 4, clause (c), there can be no recovery for the death of a miner where the evidence shows that the opening into which the miner fell and was killed was not used for the purpose of ventilation or escapement or for the hoisting and lowering of men and material in connection with the mining of coal.

Moore v. Dering Coal Co., 242 Ill. 84, p. 87.

See *Spring Valley Coal Co. v. Greig*, 226 Ill. 511.

Section 2, of the act of 1899, makes any shaft in process of sinking and in opening a project for the mining of coal subject to the inspection of the State inspector of mines, and requires every hoisting shaft to be equipped with substantial cages protected and covered to prevent injury from falling objects. Other sections of the act require inspection and notice in working places where dangerous conditions exist and prohibit miners from entering a mine until the place is made safe. Under these provisions and the definitions of mine and shaft as given in the statute the question as to whether an uncompleted shaft in a coal mine that was being opened, and where some coal had been mined and removed, was a coal mine within the meaning of the statute, is a question of fact to be determined by a jury in an action for damages for the death of a miner killed while working in an uncompleted shaft.

Hakanson v. La Salle County Carbon Co., 265 Ill. 165, p. 167.

Hakanson v. La Salle County Carbon Coal Co., 168 Ill. App. 147, p. 151.

See *Moore v. Dering Coal Co.*, 147 Ill. App. 95, p. 97;

Moore v. Dering Coal Co., 242 Ill. 84.

The escapement shaft and place of exit used in section 3 mean one and the same thing and both mean the escapement shaft. The passageways required to be kept 5 feet high, 5 feet wide, and free from obstructions are those communicating with the escapement shaft from the main hauling ways. A passageway leading indirectly through other passageways to the escapement shaft or place of exit is not comprehended in the language of the statute. "The passageway leading from a main hauling way is not intended for use in hauling coal in going to and from their places of work by the miners." Its purpose is to afford a means of escape when exit from the mine can not be made by means of the usual method by way of the hoisting shaft. In time of accident or great excitement a large number of miners might have to use such passageway, and it is therefore necessary that it should be free from obstructions and wide enough and high enough to allow them to pass freely and rapidly.

Marquette Third Vein Coal Co. v. Allison, 132 Ill. App. 221, p. 226.

See *Spring Valley Coal Co. v. Rowatt*, 196 Ill. 156;

Spring Valley Coal Co. v. Rowatt, 96 Ill. App. 248;

Chicago-Coulterville Coal Co. v. Fidelity, etc., Co., 130 Fed. 957.

9. INSPECTION—EXTENT OF EXAMINATION—COMPLIANCE WITH STATUTE.

The statute does not provide how, nor to what extent, the required examination should be made; and if a mine operator employs a certified examiner and the mine is examined at the time required, this will constitute a compliance so far as the operator is concerned. The mere mistake of the examiner or a failure on his part to detect a defective place in the roof can not constitute a willful neglect of the operator within the meaning of the statute.

Kellyville Coal Co. v. Strine, 117 Ill. App. 115, p. 121.

See New Virginia Coal Co. v. Gower, 119 Ill. App. 1, p. 5;

Kellyville Coal Co. v. Hill, 87 Ill. App. 424;

Joseph Taylor Coal Co. v. Dawes, 122 Ill. App. 389, p. 393;

Dunk Bros. Coal & Coke Co. v. Lucas, 127 Ill. App. 61, p. 65;

Springfield Coal Min. Co. v. Gedutis, 127 Ill. App. 327, p. 329.

Section 18 of the amendatory act of 1907 requires mine examiners to inspect all places where men are instructed to pass or to work and to observe whether there are recent falls or obstructions in rooms or roadways or accumulations of gas or other unsafe conditions, and requires the mine examiner, when any such dangerous conditions are found to place a mark thereat as notice to all men to keep out. Duties of mine examiners with respect to inspection and knowing conditions are also found in the act of 1911.

Eaton v. Marion County Coal Co., 257 Ill. 567, p. 570.

The character of an examination of a mine which a mine manager is required to make is indicated by the qualifications which he is required to possess according to clause (f) of section 7. These concern his experience in mines generating dangerous gas, his practical and technical knowledge of the nature and properties of fire damp, the laws of ventilation, the structure and uses of safety lamps and the laws of the state relating to safeguards against fires in mines. But mine examiners are not required to know anything about engines, machinery or winding apparatus or to be competent to examine them. It would be unreasonable to suppose that the legislature, while requiring managers to pass an examination as to their qualifications for the duties imposed upon them, intended to impose upon them other duties requiring other special qualifications without requiring them to pass an examination as to the competency of such duties.

Pate v. Gas Blair Big Muddy Coal Co., 252 Ill. 198, p. 204.

Section 18 of this act, requiring a daily inspection of a mine to be made and a report of its condition to be kept in a book for that purpose is not limited in its obligation to the miners who are employed to dig and remove the coal from their various working places, but the statute is for the safety and protection of all who are employed in a mine, including engineers, firemen, pump men, shot firers, drivers and other workmen and employees.

Brennen v. Carterville Coal Co., 241 Ill. 610, p. 619;

Houghland v. Avery Coal & Min. Co., 246 Ill. 609, p. 615.

See Davly v. Illinois Collieries Co., 232 Ill. 284;

McCarthy v. Spring Valley Coal Co., 232 Ill. 473.

The inspection and examination required by this statute and imposed upon owners and operators of coal mines is not limited to the shafts and the rooms and entries and underground workings of the mine, but apply with equal force to all machinery and appliances used on the surface in removing coal and other material from the top of the shaft, and includes engines and cars used for hauling the coal to dumps at places of sale and shipment.

Spring Valley Coal Co. v. Greig, 226 Ill. 511, p. 518.

If a coal mine operator before permitting persons to enter the mine caused it to be examined by a duly certified examiner, who in good faith made an ex-

amination to ascertain if there were any dangerous conditions rendering it unsafe for men to work therein, and he reported the mine to be in a safe condition when in fact it was not, the mine operator cannot be held liable in damages to the widow of a miner killed by reason of existing dangerous conditions for the reason that the statute only authorizes an action to be maintained by the widow of the deceased where the statute was wilfully violated or its provisions wilfully not complied with, but it does not give a widow a right of action for mere negligence.

Kellyville Coal Co. v. Strine, 117 Ill. App. 115, p. 121;

New Virginia Coal Co. v. Gower, 119 Ill. App. 1, p. 5.

See Himrod Coal Co. v. Schroath, 91 Ill. App. 234;

Joseph Taylor Coal Co. v. Dawes, 122 Ill. App. 389, p. 393.

The fact that an ordinary employee who operated a rock-pump engine had been instructed by the top foreman to examine the machinery for the purpose of keeping it in order and that he visited the places for that purpose the day before an accident and injury and found it in perfect condition, is not a compliance with the statute requiring examinations to be made by a licensed mine examiner.

Spring Valley Coal Co. v. Greig, 226 Ill. 511, p. 519.

The term "boilers" used in this clause of section 4 includes all pipes and connections between the boilers and the steam chest or engine, and a failure to inspect these as required by the statute is a violation of the provision requiring the mine operator to have the machinery in his mine inspected daily by the mine examiner.

Sheppard v. Marquette Third Vein Coal Min. Co., 164 Ill. App. 495, p. 501.

The provisions of section 34 cover a stationary engine situated at the top of the mine, used to furnish power to haul coal cars to the retail dump and to bring back empty cars by means of cable. The duty of examination or inspection imposed by the statute is not limited to the shafts and portions of the mine which are underground but includes such stationary engine, machinery and other appliances used in removing coal and other material from around the top of the mine, and the failure of the mine examiner to inspect and mark any dangerous places is a violation of the statute.

Sheppard v. Marquette Third Vein Coal Min. Co., 164 Ill. App. 495, p. 502;

Spring Valley Coal Co. v. Greig, 226 Ill. 511;

Spring Valley Coal Co. v. Greig, 129 Ill. App. 326.

Section 18 deals with the examination of mines and concerns especially ventilation and safety of places where men are expected to pass from or to work; but tools, animals and machinery are not mentioned and do not come under any of the terms of the section, unless in the expression in clause (a) "or other unsafe conditions," or the expression in clause (b) "or any dangerous conditions" or "until all conditions have been made safe." The first two of these phrases refer expressly to working places, and the context shows that the last refers to nothing else.

Pate v. Blair-Big Muddy Coal Co., 252 Ill. 198, p. 203;

Eaton v. Marion County Coal Co., 257 Ill. 567, p. 571.

See Felchner v. Consolidated Coal Co., 176 Ill. App. 411, p. 413.

In an action for the death of a shot-firer caused by an explosion on the ground of an alleged violation of the statute in that the mine operator failed to properly ventilate the mine and permitted a dangerous accumulation of gas, powder, dust, and dangerous substances, it is proper to admit evidence of the conditions in the part of the mine where the explosion occurred, existing within such time as might tend to show its condition at that time; and it was

proper to prove another explosion in the same part of the mine two days before in corroboration of other evidence tending to show the presence of gas leaks or feeders or other explosive conditions.

Conover v. Harrisburg & Southern Coal Co., 161 Ill. App. 74, p. 78.

10. MINE OPERATORS—DUTIES GENERALLY—GOOD FAITH.

The question of the existence or non-existence of good faith on the part of the operator of a coal mine is not involved in a suit brought for a wilful violation of the statute.

Emerling v. Spring Valley Coal Co., 149 Ill. App. 97;

Aetitus v. Spring Valley Coal Co., 150 Ill. App. 497, p. 504;

Catlett v. Young, 143 Ill. 74;

Odin Coal Co. v. Denman, 185 Ill. 413;

Eldorado Coal Co. v. Swan, 227 Ill. 586;

Davis v. Illinois Collieries Co., 232 Ill. 284;

Olson v. Kelly Coal Co., 236 Ill. 502;

Karkowski v. La Salle County Carbon Coal Co., 154 Ill. App. 399, p. 406.

If a mine is in a dangerous condition or an owner or operator has failed with knowledge of its condition to comply with the statute, a liability exists, and he cannot excuse himself on the ground that he had the mine examined and in good faith thought it was not dangerous, as his liability does not rest upon the ground that in good faith or bad faith he thought there was no danger in the mine, but upon the ground that knowing the facts which made the mine dangerous, he failed to have the statutory marks properly placed in the mine.

Wells v. Lumaghi Coal Co., 183 Ill. App. 404, p. 412.

See Aetitus v. Spring Valley Coal Co., 246 Ill. 32.

Aside from the duty imposed by the statute on a mine operator the common law duty of a mine operator requires him to use reasonable care to provide a reasonably safe place for miners to work. The fact that an entry was in a dangerous condition and was known to be in such condition by the mine operator, and he failed to put the entry in a reasonably safe condition and failed to provide refuge places, is sufficient to justify finding him guilty of wilful violation of the statute.

Junction Min. Co. v. Ench, 111 Ill. App. 346, p. 351.

See Hamrod Coal Co. v. Clingan, 114 Ill. App. 568, p. 574.

11. DUTY OF MINE OPERATOR TO ADOPT AND POST RULES.

Section 32 of the act of 1899 makes it the duty of every mine owner and operator to promulgate and post rules for the conduct of his business and the government of his employees. The duty of the operator to establish and post rules and the duty of the miner to obey them are reciprocal. But notices posted stating that the business is dangerous and every employee must take constant care to avoid injury; that persons accepting employment do so with full notice that the danger of injury from falling roofs and coal is one of the usual risks of the service; that the manager does not assume that the place to which an employee is ordered is not dangerous, but every place in the mine is dangerous and the duty of ascertaining the danger and avoiding it is on the employee, and that no employee is authorized to incur any risks by relying on the timbermen; and the operator by employing timbermen does not agree to secure the roof of the mine. Such statements and notices are nothing more than an attempt to make laws under the guise of rules, and if claimed to operate as a contract against the negligence of the operator, they are void as against public policy. The mine owner and operator who fails to comply

with the statute in properly supporting the roof of an entry over a haulway is liable in damages to a trip driver injured by reason of the operator's failure to have the roof securely propped.

Consolidated Coal Co. v. Lundak, 196 Ill. 594, p. 597;

Consolidated Coal Co. v. Lundak, 97 Ill. App. 109, affirmed.

See Himrod Coal Co. v. Clark, 197 Ill. 514;

Gruenendahl v. Consolidated Coal Co., 108 Ill. App. 644, p. 649;

Spring Valley Coal Co. v. McCarthy, 136 Ill. App. 473, p. 476;

Kennedy v. Chicago & Carterville Coal Co., 180 Ill. App. 42, p. 46.

A rule adopted by a mine operator requiring miners to keep off of hauling ways and away from the bottom of the shaft during working hours while the mine was in operation is in conflict with the statute which provides that men who have completed their day's work or a miner who had been prevented from finishing work can come to the shaft to be hoisted, and a violation of such a rule can not be pleaded as a defense to an action by a miner for damages for injuries caused by being run down by a car while he was traveling through an entryway to the shaft after he had been prevented from completing his day's work.

Magnani v. Spring Valley Coal Co., 193 Ill. App. 107, p. 109.

The question of whether or not a posted rule of a mine operator prohibiting employees from traveling on a haulage road of a mine, had been abandoned and was no longer in force at the time of the injury complained of, where it was the habit of the miners and employees to walk to and from work through the haulage way and whether the company itself had abandoned the rule was a question of fact and was sustained by the evidence.

Marriage v. Electric Coal Co., 188 Ill. App. 142, p. 144.

12. DUTY OF OPERATOR TO EMPLOY MINE MANAGER OR EXAMINER.

The act of 1911 makes it the duty of all operators of coal mines to employ a mine examiner and specifically fixes the duties of such mine examiner.

Havron v. Shoal Creek Co., 184 Ill. App. 117, p. 119.

The statute requires the employment of a mine examiner in order that the operative miners may know, before they enter the mine, that it is safe. He is the agency designated by the legislature to see that the mine is safe for the operative miners. The law was not passed for the protection of the man who was required to make the examination, but for the protection of those whom the Constitution made it the duty of the legislature to protect by statute. The purpose of the employment of a mine examiner is that he shall go into the mine in advance of the miners and ascertain whether or not it is free from dangers from which it was the legislative duty to protect such miners.

Havron v. Shoal Creek Coal Co., 184 Ill. App. 117, p. 121.

Section 8 of the statute makes it unlawful for a mine operator to employ anybody not duly certificated to serve either as a mine manager, mine examiner, or hoisting engineer; and section 16 specifies the duties pertaining to the safety of the men employed in the mine that shall be performed by such certificated employees respectively.

Donk Bros. Coal & Coke Co. v. Lucas, 127 Ill. App. 61, p. 62.

It is unlawful for a mine operator to permit any person to serve as mine manager, mine examiner, or hoisting engineer who has not the proper certificate as to his qualifications for such service.

Donk Bros. Coal & Coke Co. v. Lucas, 127 Ill. App. 61, p. 63.

The purpose of the provision of the statute requiring coal mine owners and operators to employ managers and examiners who have obtained certificates from the State mining board was to guard against the possibility of the proprietor employing incompetent, intemperate, negligent or disreputable persons, and not to enable such owner and operator to shift to his employees his responsibility for the management of the mine.

Henrietta Coal Co. v. Martin, 221 Ill. 460, p. 467;

Davis v. Illinois Collieries Co., 232 Ill. 284, p. 290.

The requirement of section 8 of the statute is that the specified duty shall be performed by the persons named and that they shall not be performed by other than a person whose competency is evidenced by the required certificate. The statute relieves the mine operator of a part of his common-law duty in that it relieves him of the duty of making due inquiry as to the applicant's competency before employing him.

Donk Bros. Coal & Coke Co. v. Lucas, 127 Ill. App. 61, p. 63.

The statute does not restrain the mine operator in the exercise of any proper liberty in the selection of a mine manager, mine examiner, or hoisting engineer as at common law he had no right to select any but competent persons for such service; and the presumption must be that all competent persons desiring such employment will be properly certificated and all competent persons who are willing to perform such service may be employed, and a mine operator may at any time discharge any such employee for a failure to perform a specified duty, or for any other reason, or for no reason and employ another in his stead, or he may perform the duties himself in person, if he is competent to do so and procures the requisite certificate.

Donk Bros. Coal & Coke Co. v. Lucas, 127 Ill. App. 61, p. 63.

The fact that a mine operator, if he employs men to act in the capacity of mine managers and mine examiners, is required to employ such persons who have obtained a certificate from the State mining board is without significance. The purpose of the requirement was to guard against the possibility of the proprietor employing incompetent, intemperate, negligent, or disreputable persons and not to enable the operator to shift to his employees his responsibility for the management of the mine, but it is not obligatory upon the operator to select a particular individual or to retain one when selected if found to be incompetent.

Wilmington Star Min. Co. v. Fulton, 205 U. S. 60, p. 72.

A mine manager has power to instruct employees and miners as to their respective duties and to require of such employees and miners obedience to the mining law.

Morris v. O'Gara Coal Co., 181 Ill. App. 309, p. 316.

In the prosecution of a president of a mining corporation for willful and unlawful violation of the statute in that he employed a person to act and serve as mine examiner who did not have and hold a certificate of competency, it is error for the court to instruct the jury that they may disregard the charge of willfulness in determining the question of the defendant's guilt.

People v. Letter, 143 Ill. App. 350, p. 356.

12. ASSISTANT MINE MANAGER—EMPLOYMENT.

Employment of an assistant mine manager in large mines is authorized by this statute and the failure of an assistant mine manager to deliver props to a miner on proper demand is a willful failure on the part of the operator himself

to perform the duties required by statute and renders him liable for any resulting damages.

Donk Bros. Coal & Coke Co. v. Lucas, 127 Ill. App. 61, p. 66.

Where a mine is so extensive that all the duties devolving upon the mine manager can not be discharged by one man, other persons may be designated as assistants to the mine manager who shall exercise these functions under the mine manager's instructions.

Morris v. O'Gara Coal Co., 181 Ill. App. 309, p. 316.

14. MINE MANAGERS AND EXAMINERS—DUTIES.

A mine examiner must perform the duties imposed upon him by the statute and he has no power to adjudicate the question of the safety of an entry or roadway at a particular place.

Davis v. Illinois Collieries Co., 232 Ill. 284, p. 289;

Olson v. Kelly Coal Co., 236 Ill. 502, p. 506;

Aetitus v. Spring Valley Coal Co., 246 Ill. 32, p. 42;

Wilkerson v. Willis Coal & Min. Co., 158 Ill. App. 620, p. 626.

A person authorized to act as a mine manager under the statute can also act as mine examiner.

Brennen v. Carterville Coal Co., 241 Ill. 610, p. 619.

A person holding a manager's certificate may serve as a mine manager; and if a qualified mine manager acts also as a mine examiner and holds a certificate of competency as such and marks the dangerous places himself, the object of the law is fully met.

People v. Kolb Coal Co., 151 Ill. App. 469, p. 472.

Section 21 makes it the duty of the mine examiner to examine the workings of the mine within twelve hours preceeding every working day in the mine; to carry a safety lamp properly equipped; to see that the air current is traveling properly; to measure the amount of air passing in the last cross cut or break-through; to inspect all places where men are required to pass or work; to observe whether there are any recent falls, dangerous roofs or accumulations of gas and to place conspicuous marks or signs in places where there are recent falls or dangerous roofs, and if there is an accumulation of gas, to place obstructions across the roadway, one of which must be outside the last open cross cut and it requires a daily record to be made and kept of the condition of the mine.

Havron v. Shoal Creek Coal Co., 184 Ill. App. 117, p. 121.

An indictment against a mine examiner for failure to properly mark a dangerous place in a mine is sufficient if it alleges that the mine examiner failed to mark the room or place as required; and it need not aver that he was "certificated"; but if the indictment avers that the mine examiner was "certificated," proof of such fact is not required, as the averment may be regarded as surplusage.

People v. Leiter, 186 Ill. App. 453, p. 457.

On account of the decisions of the Supreme Court construing the Mines and Miners' Act of 1899, the legislature enacted the amendatory statute of 1911 limiting the duty of the mine examiner to examinations of the underground workings of mines.

Rogers v. St. Louis-Carterville Coal Co., 254 Ill. 104, p. 108.

15. DELEGATION OF DUTIES—POWER TO EXEMPT FROM LIABILITY.

The object of the mining act is to protect, so far as legislative enactment may, the health of persons employed in the mines of the state while they are working in the mines. The principal measures prescribed for this purpose require the exercise of greater precaution and care on the part of the mine owner and operator for the safety of miners than was required by the common law. To say that the owner and operator may shift his liability to a person employed by him as an examiner or manager who holds a certificate of the State Mining Board is to lessen his responsibility and defeat in part the beneficent purposes of the statute. But to hold him liable for wilful violation of the act or a wilful failure to comply with its provisions on the part of his examiner or manager, is to give force and effect to the statute according to the intent of the law makers and to prolong the lives and promote the safety of the miners.

Henrietta Coal Co. v. Martin, 221 Ill. 460, p. 467.

A mine manager and mine examiner while in the performance of the duties prescribed by statute, are not fellow servants of a miner. The object of the statute is to require of the owner or operator of a mine the performance of those duties which the statute prescribes for the mine examiner and mine manager. The mine owner or operator as an individual, may himself act in either capacity if he possesses the necessary certificate otherwise he is required to perform such duties through the manager and through the examiner; and the employment of a mine examiner and mine manager duly certified, does not shift the responsibility from the mine operator and owner.

Henrietta Coal Co. v. Martin, 221 Ill. 460, p. 466.

The question whether the boss driver and vice principal, who at the time of an alleged injury, was acting as a motorman, was a fellow servant with the miner, or whether he sustained the relation of boss driver and vice principal is a question of fact to be determined by the jury, but when the boss driver assumes the duties of motorman and neglects to give proper warning or reasonable notice the failure of which would constitute negligence or a violation of the statute, his conduct becomes that of the mine operator and his negligence or failure to obey the statute in that regard is that of the mine operator.

McGuire v. North Breese Coal & Min. Co., 179 Ill. App. 592, p. 594.

16. VICE PRINCIPAL—MANAGER AND EXAMINER.

A mine inspector, mine manager, and night pit boss stand in relation to miner working in the mine as the master or vice principal.

Consolidated Coal Co. v. Wombacher, 134 Ill. 57;

Wesleyville Coal Co. v. Schwartz, 75 Ill. App. 468, p. 474.

The mine examiner and mine manager duly certified and employed by a mine owner or operator stand for him and are vice-principals and perform those duties which the owner or operator cannot delegate to others in such manner as to relieve himself of responsibility; and for any wilful violation of the statute by either the mine examiner or manager or for any wilful failure by either of them to observe its provisions, the mine owner and operator is liable.

Donk Bros. Coal & Coke Co. v. Peton, 192 Ill. 41;

Taylor Coal Co. v. Dawes, 226 Ill. 145;

Donk Bros. v. Stroff, 200 Ill. 483;

Kellyville Coal Co. v. Strine, 217 Ill. 516;

Davis v. Illinois Collieries Co., 232 Ill. 284, p. 289;

Olson v. Kelly Coal Co., 236 Ill. 502, p. 505;

Wilmington & Springfield Coal Co. v. Sloan, 225 Ill. 467, p. 469;
 Mertens v. Southern Min. Co., 235 Ill. 540, p. 547;
 Taylor Coal Co. v. Dawes, 122 Ill. App., 389, p. 392;
 Illinois Collieries Co. v. Davis, 137 Ill. App. 15, p. 19.
 See Consolidated Coal Co. v. Fleischbein, 207 Ill. 593, p. 599;
 Consolidated Coal Co. v. Gruber, 188 Ill. 584, p. 588;
 Himrod Coal Co. v. Clingan, Ill. App. 568, p. 575.

An employee in a mine who is authorized to look after and care for the ventilation in his part of the mine and who was directed to fix a particular curtain for the purpose of controlling the ventilation is not a fellow servant of a miner injured because of the lack of proper ventilation, but is a vice principal of the mine operator with respect to the performance of the particular duties with which he was charged and for any negligence on his part the operator is liable.

Wilmington & Springfield Coal Co. v. Sloan, 225 Ill. App. 467, p. 648.

A person intrusted by a coal mine operator with the duty of caring for and repairing the ventilating apparatus and watching the air currents in the mine stands in the relation of vice principal to the mine operator and any notice to such person of the breaking down of any of the ventilating apparatus would be notice to the operator, and the operator would be liable for the wilful failure of such person or vice principal to perform the duties imposed upon him.

Wilmington & Springfield Coal Co. v. Sloan, 127 Ill. App. 218, p. 220.

See Sangamon Coal Min. Co. v. Wiggerhaus, 122 Ill. 279;

Odin Coal Co. v. Tadlock, 216 Ill. 624;

Taylor Coal Co. v. Dawes, 220 Ill. 145;

Rosan v. Big Muddy Coal & Iron Co., 128 Ill. App. 128, p. 131.

Under the act of 1899 a mine manager and mine examiner are vice principals of the owner and engaged in the performance of duties which the owner can not delegate to others in such manner as to relieve himself from responsibility.

Wilmington Star Min. Co. v. Fulton, 205 U. S. 60, p. 72.

Under the statute of 1899 the mine examiner and mine manager are held to be vice principals of the mine owner and operator. In Pennsylvania a similar statute was held unconstitutional and it was held by the Supreme Court of that State that the mining boss or foreman is a fellow servant of the other employees of the same employer and when a mine owner or operator employs a competent boss or foreman to direct the operations in a mine, he has discharged the full measure of his duty and is not liable for an injury arising from the negligence of a foreman. The Supreme Court of West Virginia under a similar statute has followed the Pennsylvania court.

Henrietta Coal Co. v. Martin, 221 Ill. 460, p. 466.

See Durkin v. Kingston Coal Co., 171 Pa. 193;

Williams v. Thacker Coke & Coal Co., 44 W. Va. 599.

17. COMPETENCY OF MINE EXAMINER—EFFECT OF CERTIFICATE.

The certificate given by the State to a mine manager, mine examiner or hoisting engineer, is *prima facie* evidence of the competency of the holder thereof; but it does not relieve the operator from responsibility for any part of his conduct not involving his competency and not even for that if the operator knew for any reason he was in fact incompetent.

Donk Bros. Coal & Coke Co. v. Lucas, 127 Ill. App. 61, p. 63.

See Consolidated Coal Co. v. Seniger, 179 Ill., 370, p. 374;

Fulton v. Wilmington Star Min. Co., 133 Federal 193.

The question as to whether or not a mine examiner was actually qualified to make the examination of a mine is immaterial so long as he had no certificate of competency. No matter how much knowledge of mining operations a per-

son may have, theoretically or practically or both, he can not be legally employed to make an examination until he has procured a certificate of competency.

People v. Leiter, 143 Ill. App. 350, p. 354.

18. MINE EXAMINER—RIGHT TO PROTECTION OF STATUTE.

Employment in a coal mine is a dangerous occupation and when a person accepts employment as a mine examiner he knows it is a dangerous position to fill as otherwise his employment would not be required. He must know all of the requirements of the statute as to the duties to be performed by him and when he accepts such employment he assumes all dangers incident thereto. He is not an operative miner, but he is the means selected by the legislature in the passage of the law for the protection of the operative miners. A mine examiner cannot recover in an action for damages against a mine operator for a failure to comply with the statutory requirements which are only applicable to operative miners, and a mine examiner does not come within the class entitled to protection under the provisions of the statutes.

Havron v. Shoal Creek Coal Co., 184 Ill. App. 117, p. 122.

19. LIABILITY AND NONLIABILITY OF OPERATOR—INSTANCES.

This statute is to be liberally construed but every accident occurring in a mine is not to be attributed necessarily to the wilful failure of a mine operator to comply with some provision of the act. A mine operator is not liable as for a wilful violation of the statute in failing to keep a commodious passageway at the bottom of the shaft where the injury complained of was caused by a mule, which on being struck by the driver, rushed forward and fell upon and injured the complaining miner, as in such case the failure to provide a commodious passageway around the landing had nothing to do with the injury complained of.

Carter v. Sangamon Coal Co., 162 Ill. App. 8, p. 10.

There can be no recovery in an action against a mine operator for a wilful violation of the statute for the death of an employee caused by a pipe falling while the employee was riding down a shaft in an open platform, where the mine operator had driven two shafts over 500 feet to the bottom of the third vein and had connected these at the bottom by a way intended as an air passage and where the mine owner cut through the vein of coal and took out the coal and cut a main entry from one shaft to the other, keeping the coal and earth and rock separate, but not raising the coal as a part of the operation of a coal mine, but in the work of preparing the plant to be operated as a coal mine, for the reason that the plant was not being operated as a coal mine but only work preparatory to such operation.

Hakanson v. La Salle County Carbon Coal Co., 168 Ill. App. 147, p. 150;

Swengel v. La Salle County Carbon Coal Co., 182 Ill. App. 623, p. 630.

See *Moore v. Dering Coal Co.*, 242 Ill. 84;

Moore v. Dering Coal Co., 147 Ill. App. 95.

It is the duty of a mine operator to see that the shooting is so directed that a pillar of coal between rooms is left of sufficient thickness to be safe. A miner is not required by any rule or regulation or by any statute to keep himself advised of the exact location of the cut on the opposite side of a pillar and to make measurements to ascertain the thickness of the pillar. These all pertain to the duties of the mine manager and the mine examiner as representatives of the mine operator; and a mine operator is liable for injuries to a miner

caused by a shot blowing through from an adjoining room, as a result of the failure of the mine examiner and mine manager to discover and mark or otherwise report that the place was dangerous by reason of the thinness of the pillar.

Franci v. Tazewell Coal Co., 157 Ill. App. 457, p. 482.

A distinction is made between cases where a mine owner or operator has failed to do some specific thing required by the statute, and where the alleged dangerous condition relates to a matter not specifically prescribed by the statute. Where the statute has directed a fence to be built around the top of a shaft, or a light to be displayed, or roadways to be sprinkled, the operator can not say that he did a thing which he thought was a sufficient protection to the miners. The statute contains no directions as to how drop doors shall be built, or how a roadway shall be fitted for travel, except that the operator must guard against dangerous conditions. In such case, if the mine examiner made an examination as required by statute and in good faith decided that the conditions are safe and so reported, and the mine manager so believed, and if the conditions are those which prudent mine managers consider safe in their minds, then the mine operator can not be held liable for wilfully permitting dangerous conditions to exist.

Hamilton v. Spring Valley Coal Co., 149 Ill. App. 10, p. 19.

See *Bisel v. Kerens-Donnewald Coal Co.*, 153 Ill. App. 8.

The requirements of this statute seek to protect the miner by compelling the mine owner to provide material "so that the workmen may at all times be able to properly secure said workings for their own safety." If the miners only used the timber, propped the roof for themselves and thus undertook to secure themselves against injury, then they would assume this risk. But where a driver in a coal mine had nothing to do with the roof, found it out of repair, of which the mine operator had notice through his vice principal and assumed to repair it, under such circumstances the statute requiring the operator to furnish timbers does not protect him against liability for injury to a driver where the operator had notice of the dangerous condition of the roof, and where it was no part of the duties of the driver, and where he had neither time nor opportunity to repair the roof.

Consolidated Coal Co. v. Bokamp, 181 Ill. 9, p. 20.

20. DUTY OF OPERATOR—MINER MAY ASSUME PERFORMANCE.

The miner has a right to rely upon the performance of the mine examiner's duty and the absence of a mark indicates that in the judgment of the mine examiner the roof is not dangerous.

Arkley v. Niblack, 272 Ill. 356, p. 362.

21. HOISTING ENGINEERS—DUTY TO EMPLOY—RIGHT TO DISCHARGE.

The law requires a mine operator to select his engineer from a certain class, but it does not make it obligatory upon an operator to employ a particular certified engineer or to retain him in his employment, and it is not a violation of the law for a mine operator to discharge a certified engineer if he is found to be incompetent.

Consolidated Coal Co. v. Seniger, 179 Ill. 370, p. 374.

See *Staunton Coal Co. v. Bubbs*, 119 Ill. App. 278, p. 281.

Section 7 of the statute makes it obligatory upon the owner, agent or operator of a coal mine not to place in charge of any engine whereby men are lowered or hoisted into or out of a mine, any but experienced, competent and sober per-

sens over the age of 18 years. Section 14 confers a right of action upon any person injured by reason of a wilful violation of any of the provisions of the act. Under this statute a coal mine operator employing an incompetent person and retaining him in his service after his incompetency is known, is liable in an action for damages by a miner injured by reason of the incompetency of such engineer.

Niantic Coal Min. Co. v. Leonard, 126 Ill. 216, p. 217.

Niantic Coal Min. Co. v. Leonard, 25 Ill. App. 95, p. 97.

The certificate required by this statute does not conclusively establish the competency of the person to whom it is issued, but this may be considered with other evidence upon the question of his competency. The State Board of Mine Examiners has no power to adjudicate upon the question of the competency of a certified engineer so as to bind a mine operator or his employees, and an injured miner is not debarred from proving that a certified engineer was, in fact, incompetent and unfit for the performance of his duty and that the mine operator had notice of such incompetency and unfitness.

Consolidated Coal Co. v. Seniger, 179 Ill., 370, p. 374.

See Staunton Coal Co. v. Bubb, 119 Ill. App., 278, p. 281.

22. HOISTING MACHINERY—DUTY—CARE REQUIRED—LIABILITY.

Section 28 was enacted for the protection of men when the hoisting or lowering of men occurs, and the part reading "or when the landing at which men take or leave the cage is obscured by steam or otherwise" relates back to the "hoisting or lowering of men." The object of requiring a light at the shaft was to protect men whose duties require them to go up and down the shaft so they might be able to see the shaft and cages and avoid danger, and it is immaterial whether one man or many are so engaged.

Grimm v. Donk Bros. Coal & Coke Co., 161 Ill. App. 101, p. 104.

The failure of a mine operator to equip a cage with safety catches, as required by the statute to prevent its falling in case the machinery or appliances break or fail to work properly is a wilful violation of the statute for which a mine operator is liable where an injury results therefrom, and the fact that the injured miner himself violated the statute is not a defense to an action by him for damages, and especially where his violation had nothing whatever to do with contributing to the injury.

Darling v. Wood, 168 Ill. App. 272, p. 275.

See Merlo v. Johnston City & Big Muddy Coal etc. Co., 173 Ill. App. 425, p. 430.

Sections 23 and 28 of this act are enlargements of section 6 of the act of 1887. But the words "of coal" found in section 6 of the act of 1877 have been omitted from this act and the words "at night" have been changed to read "for the day." Section 28 of this statute is ambiguous, but it should be read as section 6 of the act of 1877 did originally, and the lawmakers either changed it unintentionally or regarded it as though apparent that the words "after hoisting ceases for the day" referred back to the last antecedent "coal" and it was not necessary to repeat it. Section 28 means what section 6 (act of 1877) originally said, that the bottom man and top man should remain at their posts at least 30 minutes after the "hoisting of coal" ceases for the day.

Thompson v. O'Gara Coal Co., 161 Ill. App. 39, p. 41.

See Brunneworth v. Kerens-Donnewald Coal Co., 169 Ill. App. 58.

The provision of section 28 requiring a cager to remain at the bottom of the shaft for at least half an hour after hoisting ceases for the day is not for

the benefit of the day shift alone, but applies to members of the night shift who enter and work the mines in the nighttime.

Brunnworth v. Kerens-Donnewald Coal Co., 260 Ill. 202, p. 218.

See *Bartlett Coal & Min. Co. v. Roach*, 68 Ill. 174;

Brunnworth v. Kerens-Donnewald Coal Co., 169 Ill. App. 58.

The statute requires a brake on every drum so as to prevent accidents in case any of the machinery should break or give out; but it does not compel the furnishing of such a compliance as might prevent an accident in case the machinery should for any reason fail. The object in requiring a brake on the drum was as a protection for the life of the miner, in the cage ascending or descending, when at any time or for any cause the machinery used in raising or lowering the cage should refuse to perform any of its proper functions. The purpose of the brake is to stop the cage whenever there may be danger, whether danger arises from the giving out or breaking of machinery or for other causes.

Beard v. Skeldon, 113 Ill. 584, p. 587;

Illinois Third Vein Coal Co. v. Cioni, 215 Ill. 583, p. 588;

Beard v. Skeldon, 13 Ill. App. 54;

See *Spring Valley Coal Co. v. Patting*, 86 Fed. 433.

A miner in an action for damages by him for injuries received while being lowered in a cage, in order to recover against the owner and operator for a wilful violation of the statute in lowering the cage into the mine at a prohibited rate of speed, must prove that the operator, by his engineer, consciously and knowingly lowered the cage, at the time the miner was descending, at a rate of speed in excess of the rate of 600 feet per minute.

Taylor Coal Co. v. Dawes, 220 Ill. 145, p. 148.

In an action for damages for the death of a miner on the ground of an alleged violation of a mine operator to permit employees to be raised and lowered in man at the bottom of the shaft charged with the duty of attending signals and enforcing the rules governing the carriage of men on cages, it is a wilful violation of a mine operator to permit employees to be raised and lowered in a cage without a competent person stationed at the bottom of the shaft; but there can be no recovery in such an action where it appears that the presence of a competent person could not have avoided the accident and where the absence of such bottom man was not the proximate cause of the death.

Hickey v. Springfield Coal Min. Co., 149 Ill. App. 453, p. 456.

A miner who is lowered and raised in and out of a mine in a cage used for that purpose is not a fellow servant with the engineer who operates the hoisting engine, where the duties of the two men never bring them together in their respective duties and where their duties are as disconnected as if they were employed by different masters and performed their labors in places having no connection whatever with each other and where their duties did not in any manner require them to act or cooperate with each other.

Spring Valley Coal Co. v. Patting, 210 Ill. 342, p. 352.

See *Illinois Steel Co. v. Olste*, 116 Ill. App. 303;

Taylor Coal Co. v. Dawes, 122 Ill. App. 389, p. 394.

A miner injured in a coal mine about two o'clock in the morning cannot recover for such injuries on the ground of a wilful violation of the statute in that the mine operator failed to have a bottom man at the shaft where it appeared that the hoisting of coal had ceased several hours before and as early as 4:30 on the day previous.

Thompson v. O'Gara Coal Co., 161 Ill. App. 39, p. 42.

See *Brunnworth v. Kerens-Donnewald Coal Co.*, 169 Ill. App. 58.

23. SIGNALS—ADDITIONS BY OPERATOR.

Sections 23 and 28 were parts of the revision of the mining statute passed at the same time relative to the same subject-matter and are to be read together as though parts of the same enactment.

Thompson v. O'Gara Coal Co., 161 Ill. App. 39, p. 41.

Under section 23, a mine operator may with the consent of the inspector add to the code of signals in its discretion for the purpose of increasing his efficiency or promoting the safety of the men in the mine; but such code must be conspicuously posted.

Thompson v. O'Mara Coal Co., 161 Ill. App. 39, p. 40.

24. FENCING SHAFT AND LANDINGS—GATES AND CAGES.

Section 2 of the act requires a mine operator to fence the upper and lower landings of the shaft with automatic or other gates so as to prevent men or materials from falling into the shaft. By this the legislature intended that the lower landing at the top of every mine shaft shall be securely fenced with automatic gates, or some other kind of gates not automatic, and that such gates when so used, whether automatic or nonautomatic, would fulfill the requirements of the statute if they were reasonably adapted for the purpose for which they were required and were sufficient to prevent either men or materials from falling into the shaft.

Donk Bros. Coal & Coke. v. Sapp, 133 Ill. App. 92, p. 96.

See Springfield Coal Min. Co. v. Gordon, 147 Fed. 690.

A mine operator is guilty of wilful violation of the act where he removed the gates enclosing the top of the shaft and permitted a broken speaking tube to remain in such condition and position that an employee using the tube was compelled to go inside of where the gates were and should have been maintained and get down on his knees in order to use the speaking tube and while in that position was killed by a descending cage.

Willis Coal & Min. Co. v. Grizzell, 100 Ill. App. 480, p. 482.

25. LIGHTING SHAFT—DUTY AND LIABILITY—QUESTION OF FACT.

Section 28 requiring a good and sufficient light to be maintained at the bottom of a shaft so that persons may clearly discern the cage and objects in the vicinity, applies to the safety of the men or miners while entering or leaving the mine; but it has no application to and is not intended for the benefit of persons working in the mine or traveling along the entries.

Lunnaghi v. Voytilla, 101 Ill. App. 112, p. 113.

Whenever the hoisting or lowering of men occurs before daylight or after dark, or when the landing is otherwise obscure, there must always be maintained at such landing a light sufficient to show the landing and surrounding objects distinctly.

Lunnaghi v. Voytilla, 101 Ill. App. 112, p. 114.

The failure of a coal mine operator to maintain a light at the bottom of a shaft sufficient to show distinctly the landing and the surrounding objects in the mine so as to enable miners safely to get into the cage, may be the proximate cause resulting in the death of a miner attempting to board the cage where the light was insufficient; but whether or not such failure is the prox-

mate cause of an injury is a question of fact to be determined under the particular circumstances of each case.

Brunnworth v. Kerens Coal Co., 260 Ill. 202, p. 204;
 Brunnworth v. Kerens Coal Co., 169 Ill. App. 62;
 Kellyville Coal Co. v. Strine, 217 Ill. 516;
 Spring Valley Coal Co. v. Patting, 210 Ill. 342, p. 353;
 Spring Valley Coal Co. v. Patting, 112 Ill. App. 4, affirmed.

In an action by a miner for injuries occasioned on leaving the cage at the bottom of the shaft on the alleged ground that the place was insufficiently lighted, it is proper to prove that the mine owner and operator had failed to properly light the bottom of the shaft on former occasions, as bearing upon the question whether the owner and operator had wilfully violated the statute.

Robertson v. Donk Bros. Coal & Coke Co., 238 Ill. 344, p. 347.

Under this statute requiring a coal mine operator to maintain a sufficient light at the top and bottom of the shaft to show the landing and surrounding objects distinctly and whether a light is maintained that is a sufficient light at the bottom of the shaft so that persons coming to the bottom could clearly discern the cage and objects in its vicinity is a question of fact which is properly submitted to a jury in an action for damages for injuries alleged to have resulted from a failure to maintain a light.

Eldorado Coal Co. v. Swan, 227 Ill. 586, p. 589.
 See Aetitus v. Spring Valley Coal Co., 246 Ill. 32, p. 40;
 Aetitus v. Spring Valley Coal Co., 150 Ill. App. 497, p. 503.

A miner or employee of a mine operator who was required to take a box of tools to the shaft and to the cage to be lowered, but who was not to be lowered at the time he so took the box of tools but was to follow down after the box, was at the time he took the box of tools to the shaft or cage to be lowered within the protection of the statute, and the failure of the mine owner to have the place lighted as required is a wilful violation of the statute and renders him liable for the death of such miner caused by falling into and down the shaft.

Grimm v. Donk Bros. Coal & Coke Co., 161 Ill. App. 101, p. 104.

26. LIGHTING SHAFT—LANDINGS—MEANING.

Within the scope, the purpose and fair meaning of the statute, the bottom of a shaft where the cage stops to let men off who are being lowered into the mine for the purpose of going to their respective places of work is a "landing." The statute requires that sufficient lights be maintained at the top and bottom landings when men are being hoisted and lowered. The statute was intended to protect persons coming to the bottom for the purpose of going to their different working places in the mine, as much as to protect persons coming from their working places to the bottom of the shaft for the purpose of leaving the mine.

Robertson v. Donk Bros. Coal & Coke Co., 143 Ill. App. 391, p. 394.

The object of the statute is to require a mine owner or operator to keep the top and bottom of the shaft by which the miners enter the mine sufficiently lighted so they can safely enter and leave the cage. The word "landing" in paragraph (b) is broad enough to cover the place at the bottom of the shaft or at the top of the shaft where the miners enter or leave the cage and it requires the mine owner or operator to keep each of such places lighted. A miner injured on leaving a cage at the bottom of the shaft is injured at a landing within the meaning of the statute, and it can make no difference whether he was approaching the bottom of the shaft from above or from his

working place below, as in either case he was coming to the bottom of the shaft; and if he approached the bottom of the shaft from above, he did so with a view to leave the cage, and if he approached it from below he did so with a view to entering the cage and in either event he was entitled to have the bottom of the shaft lighted so that he could leave or enter the cage in safety.

Robertson v. Donk Bros. Coal & Coke Co., 238 Ill. 344, p. 347.

27. HAULAGEWAYS—DUTY AND LIABILITY OF OPERATOR.

The failure of a mine operator to keep one side of the haulage road clear of refuse or material is a violation of this section and renders the operator liable where such failure was the proximate cause of an injury to a driver.

Petton v. Consolidated Coal Co., etc., 183 Ill. App. 567, p. 571.

A driver injured by reason of his mule stopping suddenly, the car running onto the mule throwing the driver upon the track and running upon and over him, is entitled to recover damages on the ground of an alleged violation of the statute where the operator permitted refuse and materials to accumulate along the side of the track where there was less than 2½ feet from the rail to the rib, and by reason of which the driver was unable to get out of the way of the car; and under such circumstances the accumulation of the material, a violation of the statute, was the proximate cause of the injury.

Petton v. Consolidated Coal Co. etc., 183 Ill. App. 567, p. 571.

A mine owner and operator who fails to comply with the statute in properly supporting the roof of an entry over a haulway is liable in damages to a trip driver injured by reason of the operator's failure to have the roof securely propped.

Consolidated Coal Co. v. Lundak, 196 Ill. 594, p. 597;

Consolidated Coal Co. v. Lundak, 97 Ill. App. 109, affirmed.

28. REFUGE PLACES—MEANING OF REQUIREMENT—DUTY AND LIABILITY.

The failure of a mine operator to make places of refuge along the sides of a haulage way as required by the statute is a willful violation of the statute.

Brookside Coal Min. Co. v. Dolph, 101 Ill. App. 169, p. 183;

Brookside Coal Min. Co. v. Hajnal, 101 Ill. App. 175, p. 176;

Maren Coal & Ice Co. v. Howell, 107 Ill. App. 1, p. 10.

Places of refuge are required by the statute in a hauling road on which the hauling is done by draft animals although men do not pass to and from their work through such hauling way. To limit the requirements of the statute so as to require the refuge places in hauling ways where hauling is done by draft animals where men pass to and from their work, would require the change of the word "or" in the statute to the word "and." The statute means that places of refuge shall be made in hauling roads or gangways on which hauling is done by draft animals, and that places of refuge shall be made in gangways where all men have to pass to and from their work.

Kepler v. Applegate & Lewis Coal Co., 153 Ill. App. 582, p. 584.

Prior to the time of the amendment of 1907 section 21, clause (b), of the act of 1860 was construed to mean that a mine operator must construct and cut in the side walls refuge places in all hauling roads or gangways on which hauling is done by draft animals and such refuge places must be cut in side walls of all gangways wherein men pass to and from their work.

Kepler v. Applegate & Lewis Coal Co., 153 Ill. App. 582, p. 584.

The amendatory act of 1907 was not intended to be a legislative construction of the act of 1899 and to construe that act so as not to require places of refuge on a hauling road or gangway on which hauling is done by draft animals, and whereon men do not pass to and from their working places, but whereon drivers are obliged to be in the performance of their duties.

Kepler v. Applegate & Lewis Coal Co., 153 Ill. App. 582, p. 585.

Where hauling is done by draft animals upon a roadway of sufficient length to permit places of refuge to be cut in the side wall, the statute imposes the duty upon the operator to provide such places of refuge, and this notwithstanding men may not be required to pass thereon to and from their work, as the statute in this regard is in the disjunctive and not the conjunctive. The legislature appreciated the fact that draft animals do not work automatically and independently of human agency and that in all hauling roads and gangways and where draft animals are used men are also necessarily required to pass and re-pass in performing the several duties of driving, inspection, timbering and removing falls.

Schlapp v. McLean County Coal Co., 138 Ill. App. 1, p. 4.

The statute does not require a mine operator to maintain a clear space of 2½ feet between the car and the rib the entire length of a roadway. If there is such a clear space the entire length of the roadway, or if rooms are driven therefrom at regular intervals not exceeding 20 yards, then no places of refuge are required. Places of refuge are only required where both of the other statutory avenues for the safe passage of men are absent.

Schlapp v. McLean County Coal Co., 138 Ill. App. 1, p. 4.

Where it is shown that there was sufficient space in a hauling road between the cars and the rib so as not to require the cutting of refuge places as provided by the statute, or if refuge places were cut, it is a violation of the statute if the space between the cars and the rib is not kept clear of obstructions, and where it is shown that much dirt or other material was piled up in such space so that a miner or driver seeking refuge from an approaching car would be obliged to climb up and crawl into a little shelf toward the upper part of the 5 feet of room between the floor and the roof.

Kepler v. Applegate & Lewis Coal Co., 153 Ill. App. 582, p. 586.

A compliance with the statute on the part of a mine operator as to places of refuge does not relieve him from his common-law duties with reference to safety in entries. The purpose of the statute was not to abrogate the common law as to such duties but to impose an additional duty.

Muren Coal & Ice Co. v. Howell, 107 Ill. App. 1, p. 10.

Under section 21 of the statute a mine operator may construct refuge holes in such places as he sees fit, provided the places are not more than 20 yards apart. He is not required to construct a refuge hole at any particular point.

Schlapp v. McLean Co. Coal Co., 235 Ill. 630, p. 634.

The duty of providing places of refuge is required of coal operators on all inclined planes where coal cars are hauled, whether by machinery or mules or on single or double tracks. A failure to do so will render a coal-mine operator liable for injuries to a miner caused when two trains at the same time broke loose from the cable at the top and came rushing down the incline abreast, and where there were no refuge places provided.

Brookside Coal Min. Co. v. Dolph, 101 Ill. App. 169, p. 173;
Brookside Coal Min. Co. v. Hajnal, 101 Ill. App. 175, p. 176;
Muren Coal & Ice Co. v. Howell, 107 Ill. App. 1, p. 10;
Himrod Coal Co. v. Clingan, 114 Ill. App. 568, p. 575.

The statute requires places of refuge in mines where the hauling is done by machinery on single track hauling roads upon which the employees or miners must travel on foot to and from their work. The statute does not make it a requirement that there shall be places of refuge in every hauling way. In an action by a miner for injuries sustained in a hauling way on the ground of the alleged violation of the statute on the part of the mine operator in failing to provide refuge places, the mine owner may show that a manway had been provided for a long distance parallel with the main hauling way for the employees and miners to use in going to and from their work and that the injured miner was forbidden to travel upon the hauling way, and that there were conspicuous notices throughout the mine forbidding men to travel on the hauling or tripways and required them to take the manway.

Guthrie v. Empire Coal Co., 142 Ill. App. 332, p. 334;

Guthrie v. Empire Coal Co., 150 Ill. App. 530.

Where a mine operator furnishes a reasonably safe and sufficient manway parallel with the hauling way and orders and directs or warns all men working in the mine to walk to and from their work in the manway and not to walk upon the hauling way, then the mine operator is not required, under the statute, to build places of refuge in the hauling way.

Guthrie v. Empire Coal Co., 142 Ill. App. 332, p. 335;

Guthrie v. Empire Coal Co., 150 Ill. App. 530.

It is not a violation of any provision of section 21 to lay the haulage track near the rib even if places of refuge are required on that side of the haulage way. Nor is it a violation of the section if there is a clear space on the other side of the track, which was the working place of the men, as wide as the statute declares sufficient. There is no reason for saying that the statute requires two passageways 2½ feet wide, one on each side of the track. A mine owner or operator has the option to leave a clear space or to make places of refuge. The mere proof that the track was laid 6 inches from the rib on one side of the haulage way does not establish a liability under the statute.

Cook v. Big Muddy-Carterville Min. Co., 249 Ill. 41, p. 49.

The failure of a mine operator to construct refuge holes as required by the statute, or to construct a refuge hole at a particular place, cannot render the mine operator liable for an injury to a driver which occurred while he was attempting to sprag the wheels of his car where the injury occurred without reference to the presence of the refuge hole.

Schlapp v. McLean Co. Coal Co., 235 Ill. 630, p. 634.

29. LIGHTS ON MOTORS AND CARS.

Under section 21 a coal-mine operator is bound to maintain a light on the front car of the train or trip in taking the cars in and out of his mine.

Guthrie v. Empire Coal Co., 142 Ill. App. 332, p. 336;

Guthrie v. Empire Coal Co., 150 Ill. App. 530;

Baztales v. O'Gara Coal Co., 186 Ill. App. 583, p. 586.

The provisions requiring lights to be carried on a trip or train of pit cars is separate and distinct from the first paragraph, which requires places of refuge on single-track haulage roads where carrying is done by machinery, and is separated therefrom by a complete sentence referring to an entirely different matter—that of signalling on rope haulage roads. It is not necessary that the motor should be attached to the trip of cars to require a light to be carried thereon in case it or other machinery has furnished or is furnishing the motive

power. It is just as important for the protection of coal miners that a trip of cars which had been placed in motion by a motor and shunted down another track should carry a light to warn the miners of its approach as that the motor itself should carry a light.

Baziules v. O'Gara Coal Co., 186 Ill. App. 583, p. 586.

It is immaterial whether the provisions of section 15 with reference to lights on the front and rear of a trip of cars applies during the time the trip is being made up, where the evidence fails to show that the absence of the light was the cause of the injury.

McGuire v. North Breese Coal & Min. Co., 179 Ill. App. 592, p. 598.

30. PROP—DUTY OF OPERATOR TO FURNISH—LIABILITY FOR FAILURE.

The statute requires the owner or operator of every coal mine to keep a supply of timber constantly on hand of sufficient length and dimensions to be used as props and cap pieces and to deliver the same as required, with the miners' empty cars so that the workmen may at all times be able to properly secure their workings for their own safety, and this statute supersedes any other obligation on the part of the mine owner to look after the roof and to provide a reasonably safe place for the workmen.

Consolidated Coal Co. v. Bokamp, 181 Ill. 9, p. 20.

See *Consolidated Coal Co. v. Schieber*, 167 Ill. 539;

Carterville Coal Co. v. Abbott, 181 Ill. 495;

Kellyville Coal Co. v. Yehnka, 94 Ill. App. 74, p. 81.

The statute should have a reasonable and liberal construction and one which shall accomplish its purpose; and the miner must be the one to determine the length and dimensions of the props and cap pieces which he deems necessary to properly secure the roof for his own safety, and if he orders six and one-half foot props the owner or operator has not complied with the statute when he has furnished props which must be spliced or sawed in two before they can be used.

Western Anthracite Coal & Coke Co. v. Beaver, 192 Ill. 333, p. 338;

Western Anthracite Coal & Coke Co. v. Beaver, 95 Ill. App. 95, affirmed;

Kellyville Coal Co. v. Strine, 217 Ill. 516 p. 534;

Springfield Mining Co. v. Gedutis, 227 Ill. 9, p. 11;

Hackart v. Decatur Coal Co., 243 Ill. 49, p. 51.

See *Vaughn v. O'Gara Coal Co.*, 173 Ill. App. 268, p. 271.

The statute requires a mine owner and operator to furnish proper and suitable timbers and to deliver the same so that the workmen may at all times be able to properly secure their workings for their own safety. The fact that the miner's union fixed the price per yard for opening entries and the further fact that the mine operator and a miner engaged in driving an entry fixed the price for the services in excess of the scale of the miners' union, or fixed a price to be paid in addition to the price fixed by the scale of the union, can not have the effect to remove the miner from the class denominated "workmen" in the statute.

Mount Olive & Staunton Coal Co. v. Rademacher, 190 Ill. 538, p. 541.

The statute requires a mine owner and operator to keep suitable props and timbers on hand and deliver them to the miner, but it does not specify any particular place that the props or timbers are to be delivered. It was the custom for the mine owner and operator to deliver props at the bottom of a shaft and witnesses testified that when there were props on hand they were kept at the bottom of the shaft where the cages stopped when they came down into

the mine and that there were no props at the bottom of the shaft at the time of the particular injury to the miner for which he sued.

Mount Olive & Staunton Coal Co. v. Rademacher, 190 Ill. 538, p. 541;
Kellyville Coal Co. v. Yehuka, 94 Ill. App. 74, p. 81.

In a large mine employing a large number of miners and drivers it is a reasonable and common sense method and one that will promote the best interests of operator and miners for the manager to instruct the miners to make their requests for props direct to the drivers; and under such a rule and custom a demand for props made by a miner upon a driver is a sufficient demand under the statute.

Donk Bros. Coal & Coke Co. v. Lucas, 226 Ill. 23, p. 25.

The statute requires the mine operator to provide a sufficient supply of props delivered on the miner's car at the usual place when demanded and miners are not required to hunt in cross-cuts or other parts of the mine where they are not at work for props, nor to take notice of the fact that there are props in such places for use. It is a question of fact in an action for damages for injuries caused by the alleged failure of a mine operator to furnish props for a jury to determine whether or not the props were furnished.

Elam. v. Majestic Coal Co., 155 Ill. App. 375, p. 380.
Brazil Block Coal Co. v. Hotel, 192 Fed. 108.

The fact that a miner has unused props in his room will not relieve the mine operator of the duty to furnish props of suitable length on demand. The fact that a miner orders props before they are needed will not relieve the mine operator from liability for failure to furnish.

Russell v. O'Gara Coal Co., 188 Ill. App. 328, p. 329.

The miner himself has the right to demand from the mine operator such timbers as he thinks necessary to make his room a safe place in which to work, and he is not bound by the judgment of the mine manager upon this subject. The statute expressly says that the mine manager shall always provide a sufficient supply of props, caps and timbers delivered on the miners' cars at the usual place when demanded. This language means that the mine operator is to furnish the timbers upon the demand of some one else, and this some one else must be the miner, as the section further provides that the materials furnished should be in suitable lengths and dimensions for the securing of the roof by the miner.

Springfield Coal Min. Co. v. Gedutis, 127 Ill. App. 327, p. 328.

When a miner makes a demand upon the mine manager for props and timbers which are not furnished in compliance with such demand and an injury results from such failure upon the part of the mine operator to furnish the props and timbers, then the mine operator is liable under the statute for wilful negligence.

Springfield Coal Min. Co. v. Gedutis, 127 Ill. App. 327, p. 329.
See Pana Coal Co. v. Becker, 130 Ill. App. 40, p. 42.

In an action for the death of a miner on the ground of wilful negligence of the mine operator to furnish props and cap pieces at the request of the deceased, a complaint or petition is sufficient which alleges in general terms that the deceased sent up a request for props and cap pieces which were not furnished him pursuant to such request. Proof that the deceased attempted to borrow props on the day of his injury from other parties is immaterial, but its admission in evidence is not a ground for reversal of the case.

O'Fallon Coal & Min. Co. v. Laquet, 198 Ill. 125, p. 126;
O'Fallon Coal & Min. Co. v. Laquet, 89 Ill. App. 13, affirmed.

In an action for damages by an injured miner against a coal mine operator for a wilful violation of the statute in that the operator failed to supply the miner with props, caps and timbers on proper demand as required by the statute, it is error for the court to instruct the jury on the subject of negligence, as it is only for wilful failure to perform the duty required by the statute that a recovery could be had under the pleading and under the statute.

Consolidated Coal Co. v. Stein, 122 Ill. App. 310, p. 312.

See Moore v. Centralia Coal Co., 140 Ill. App. 291, p. 297.

In an action by a miner for damages for injuries on the alleged ground that the mine operator failed to furnish props, where the evidence shows that repeated demands had been made on the mine operator for props on the day of the injury, and no evidence to the contrary was offered by the mine operator in defense, the admission of evidence proving demands for props on other days and at other times and that they were not furnished cannot be regarded as prejudicial error.

Hackart v. Decatur Coal Co., 149 Ill. App. 661, p. 662.

In an action by a miner for damages for injuries caused by an alleged failure of the mine operator to furnish props and caps, no recovery can be had by showing that some person other than the mine manager, although an agent or servant of the mine operator, had neglected or failed to furnish caps and props upon demand of the miner.

Swinosynski v. Kelly Coal Co., 146 Ill. App. 120, p. 123.

Under a complaint in an action for damages by an injured miner which alleged that the miner demanded 25 props and one cap piece for each of such props, it is sufficient for the plaintiff to prove to entitle him to recover that he made the demand as alleged and that the props and caps were not furnished to him.

Hackart v. Decatur Coal Co., 243 Ill. 49, p. 51;

Vaughn v. O'Gara Coal Co., 173 Ill. App. 268, p. 271.

There may not be a recovery for injuries to a miner caused by the failure of the mine operator to supply props in compliance with the injured miner's request, where such request was not specific and failed to state the number or length or size of props and caps required; but there may be a recovery under the common law liability on the ground of negligence where the evidence shows that the operator negligently furnished insufficient, insecure, wormeaten and rotten props and that by reason thereof they were not of sufficient strength and not suitable for the purpose intended.

Hackart v. Decatur Coal Co., 243 Ill. 49, p. 53.

Where the evidence is conflicting upon the question whether props were needed to secure the roof of the room where a miner was at work when injured; whether the miner had requested that props be furnished him with which to secure the roof of his room, and whether the mine operator had failed and refused to furnish the miner with props of the requisite length to secure the roof after requested through its mine manager, are all questions of fact for the determination of a jury as to whether or not there was a wilful failure of the mine operator to comply with the provision of the statute.

Dickerson v. Henrietta Coal Co., 251 Ill. 292, p. 295.

Section 16 of the act of 1899 requires that the mine manager shall always provide a sufficient supply of props, caps and timber to be delivered on demand; but it is made the duty of the miner, not the manager or operator, to properly prop and secure his working place with the materials provided therefor. The

purpose of the statute was to aid the miners in protecting themselves against the dangers of a hazardous occupation and not a measure of a greater security for other employees. Only those having use for the props and the right to demand them can complain of a wilful failure on the part of the manager or operator to comply with a demand.

Southern Coal & Min. Co. v. Hopp, 133 Ill. App. 239, p. 241.

§1. PROPS—DUTY OF MINER TO REQUEST AND SET.

As the miner must make the roof of his room safe with the materials furnished by the mine manager, it follows that the demand contemplated by the statute must be made by the miner who is specially charged to make the roof secure, and the demand may be for such timbers as in his judgment should be required to accomplish this purpose.

Springfield Coal Min. Co. v. Gedutis, 127 Ill. App. 327, p. 329.

See *Western Anthracite Coal Co. v. Beaver*, 192 Ill. 333;

Kellyville Coal Co. v. Strine, 217 Ill. 516.

The act of 1899 is a revision of the act of 1879, which required a mine operator to supply props and cap pieces "so that the workmen may at all times be able to properly secure their workings for their own safety," and the duty is not in terms imposed upon the miners or workmen to use or place the props. But, by the present statute, the purpose of the props is for the securing of the roof by the miners and the duty is imposed upon the miners to prop and secure their places. The uncertainty under the old law is removed by clear and definite statements in this act.

Southern Coal & Min. Co. v. Hopp, 133 Ill. App. 239, p. 242.

It is the duty of a coal operator to furnish props, caps, or timbers to a miner when demanded; but it is made the duty of the miner to make a demand for the props, and he must designate the kind of timber he needs to prop his room, and it is the duty of the miner to properly prop and secure his place with the material when furnished.

Munier v. Chicago & Carterville Coal Co., 180 Ill. App. 114, p. 118.

The statute requires the miner to designate the length and sizes of the timbers he wishes to use in his room, and if no timbers are demanded of a particular length the miner can not be heard to complain if the timbers furnished are not of the length suitable to properly prop the roof.

Munier v. Chicago & Carterville Coal Co., 180 Ill. App. 114, p. 120.

The miner must be the one to determine the length and dimension of the props which he deems necessary to prop the roof for his own safety. If he orders six and one-half foot props, the owner or operator does not comply with the statute when he furnishes props which must be spliced or sawed before they can be used.

Western Anthracite Coal & Coke Co. v. Beaver, 192 Ill. 333;

Wojtylak v. Kansas & Texas Coal Co., 188 Mo. 260, p. 297.

A miner or employee in a mine injured while performing the necessary duty of putting in props and making dangerous conditions safe can not recover of the mine operator by virtue of any of the provisions of the statute, as he was himself only complying with the statute.

Kellyville Coal Co. v. Bruzas, 223 Ill. 595;

Gallatin Coal Co. v. Andrewzewski, 137 Ill. App. 1;

Cappelin v. Jones & Adams Coal Co., 164 Ill. App. 267;

Driza v. Jones & Adams Coal Co., 171 Ill. App. 139, p. 144.

The fact that a miner has the right under this statute to demand the props, and the mine manager is under obligation to furnish the same, is proof that the miner regards the props as necessary. If the props are necessary, then the miner must know that there is some degree of looseness in the pieces of coal in the roof of the room which requires the placing of props to support it. But it can not be said that though he has knowledge as to the looseness of the coal his working in the room with such knowledge is such negligence as amounts to a proximate cause of the injury and thereby relieves the mine operator from liability.

Kellyville Coal Co. v. Strine, 217 Ill. 516, p. 529.

See Brunnworth v. Kerens-Donnewald Coal Co., 260 Ill. 202, p. 211;

Kellyville Coal Co. v. Strine, 117 Ill. App. 115.

In an action by a miner for damages for injuries caused by the alleged willful violation of the statute on the part of the mine operator in that props were not furnished, the evidence is sufficient to sustain a finding to the effect that the mine operator did not violate the statute where it is not shown that the miner made a demand for props, and where it is shown that there were sufficient props in the room at the time the miner was injured and where it also appears that the fall which injured the miner was from the face of the coal and was the coal which would be taken down by the miner in the usual course of his working in mining coal.

Munier v. Chicago & Carterville Coal Co., 180 Ill. App. 114, p. 118.

32. PROPS—SUFFICIENCY OF REQUEST—CUSTOM.

A demand on the part of a miner for props and caps may be general and not specific, but if the miner does not specify the number, size, or dimensions of props, caps or timbers that he requires, the mine manager may supply what in his best judgment will suffice for the purpose, and the number and kind to be supplied will necessarily vary with the situation and circumstances of the case, and the mine manager is guilty of willful violation of duty only in case he knows that those furnished are insufficient.

Hackart v. Decatur Coal Co., 243 Ill. 49, p. 51.

In its common acceptation the word "required" is not a synonym for the word "demanded" as implied by the statute. The former may relate to a condition arising by implication and is more commonly used as synonym with "necessary" while the latter in the sense in which it is implied in the statute relates to an express overt act. The interchangeable use of these words in an instruction as applied to props is misleading and such an instruction should not be given.

Thompson v. Dering Coal Co., 158 Ill. App. 289, p. 291;

Munier v. Chicago & Carterville Coal Co., 180 Ill. App. 114, p. 119.

A coal mine operator who has adopted and recognized a custom by which miners may order props and caps from the timberman and the timberman measure and determine the length of the props, is bound by such custom, and the timberman is the vice principal and his knowledge and neglect of duty is that of the mine operator.

Russell v. O'Gara Coal Co., 188 Ill. App. 328, p. 329.

Where a mine operator adopts an exclusive method whereby a miner is required to make his demands for necessary timbers, it must be held that a compliance by the miner with such method constitutes a demand for such timbers within the meaning of the statute and a failure on the part of the mine op-

crater to comply with the demand so made constitutes a willful failure within the meaning of the statute.

Vindas v. Dering Coal Co., 145 Ill. App. 528, p. 531;

Vaughn v. O'Gara Coal Co., 173 Ill. App. 268, p. 271.

Where a custom or general usage exists in a mine that timber orders shall be signed by a miner and placed in a box provided for that purpose by the mine operator, the signing of such an order by a miner and depositing the same in a box provided, constitutes in law a demand for timbers upon the mine manager and mine operator, and a failure to comply with such demand when so made is a willful failure by the mine operator within the meaning of the statute.

Vindas v. Dering Coal Co., 145 Ill. App. 528, p. 531.

Brazil Block Coal Co. v. Hotel, 192 Fed. 108.

See *Vaughn v. O'Gara Coal Co.*, 173 Ill. App. 268, p. 271.

A demand made by a miner for props upon a mule driver is not sufficient as a demand upon the mine operator or manager, for if the driver failed to convey the order to the manager he would be at fault and not the manager, and the owner or operator could not be held liable for such negligence on the part of the driver. If, as at some mines, there is a custom to write the orders for props on a blackboard in the mouth of the shaft, then it would be the duty of the operator to examine the blackboard at frequent intervals to see what orders were written there. But an uncommunicated demand on the part of the driver of a car is not sufficient to place responsibility upon the owner or operator.

Henrietta Coal Co. v. Martin, 221 Ill. 460, p. 469;

Denk Bros. Coal & Coke Co. v. Lucas, 226 Ill. 23, p. 26.

See *Pana Coal Co. v. Becker*, 130 Ill. App. 40, p. 43;

Yanloniz v. Spring Valley Coal Co., 185 Ill. App. 563, p. 567.

In an action by a miner for damages for injuries caused by the failure of a mine owner and operator to furnish props and timbers, the evidence showed that there was a custom or usage established by the mine operator as to the manner in which the miner should make his demand for props and caps. According to this custom or usage, the miner, when he desired to have props and caps, wrote with chalk on a blackboard, placed near the mouth of the shaft for that purpose, the number of props and caps wanted and the length of the props, and on this demand the props would be sent down to him and the driver would deliver them at the miner's door. In the particular action, the evidence showed that the miner was in need of props and caps and that for three successive days before the injury he placed orders for them on the blackboard, but they were not furnished pursuant to his request. This mode of making a demand for props and caps was a reasonable and proper one and, as it was the mode adopted and in general use, it constituted a sufficient demand on the mine manager within the meaning of the statute.

Denk Bros. Coal & Coke Co. v. Peton, 192 Ill. 41, p. 45;

Denk Bros. Coal & Coke Co. v. Peton, 95 Ill. App. 193, affirmed;

Pareja v. Illinois Midland Coal Co., 156 Ill. App. 140, p. 143.

See *Western Anthracite Coal & Coke Co. v. Beaver*, 192 Ill. 333, p. 335;

Pana Coal Co. v. Becker, 130 Ill. App. 40, p. 42.

A demand by a miner for props is sufficient where it was the custom of the miners to demand props of the driver and for a timberman to come to the room and saw the props of proper length; and the failure to furnish props on a demand by a miner of the driver is a willful violation of the statute making a mine operator liable for any resulting damages.

Vaughn v. O'Gara Coal Co., 173 Ill. App. 268, p. 271;

Keddes v. Christian Co. Coal Co., 149 Ill. App. 434, p. 437.

The custom of ordering props from a driver is reasonable and proper and, where known to the miners and to the mine manager, has the effect of making a

notice to a driver notice to the mine manager. A demand made in conformity with the custom or mode adopted and in general use in the mine is a sufficient demand upon the mine manager.

Pana Coal Co. v. Becker, 130 Ill. App. 40, p. 42;
Donk Bros. Coal & Coke Co. v. Peton, 192 Ill. 41.
 See *Henrietta Coal Co. v. Martin*, 221 Ill. 460.

It is proper for a miner in an action for damages for injuries caused by the failure of the mine operator to furnish props to show a demand made upon a driver for the props, where the mine manager had expressly established the rule that the miner should request props from drivers.

Donk Bros. Coal & Coke Co. v. Lucas, 226 Ill. 23;
Yanloniz v. Spring Valley Coal Co., 185 Ill. App. 563, p. 567.

Where a custom existed in a mine for the miners to order props from the drivers and thereupon props were sent in and a timberman cut and adjusted the props to the required length, a mine operator, who failed to furnish props, under such custom can not, in an action by a miner for damages for injuries received on the ground of a wilful violation of the statute in that the mine operator failed to furnish props, avoid liability on the ground that the miner failed to request props of a particular kind or specified length.

Vaughn v. O'Gara Coal Co., 173 Ill. App. 268, p. 274.
 See *Vindas v. Dering Coal Co.*, 145 Ill. App. 528.

In the absence of proof of a custom to that effect a miner can not show that he made a demand upon a driver for props.

Yanloniz v. Spring Valley Coal Co., 185 Ill. App. 563, p. 567;
Brack v. Berry Coal Co., 174 Ill. App. 609.

33. VENTILATION.

The safety of men and animals for which provision is made in this section relates to the sanitary condition as affected by inadequate ventilation and the breathing of impure air and poisonous smoke and vapor constituting deleterious air.

Carterville & Herrin Coal Co. v. Moake, 128 Ill. App. 128, p. 135.

A mine operator who knowingly violated the statute in that he failed to properly ventilate the rooms and working places of the mine and the mine examiner failed to discover and mark the dangerous places including a room in which gas was known to accumulate, and where the marks and notices had been placed as a precautionary measure only, cannot in an action by a miner for injuries caused by an explosion in a room where the miner was working, defeat the action on the ground that the miner was negligent in going beyond the place so marked. Contributory negligence in such cases cannot be interposed as a defense to an action for a violation of the statute.

Turner v. Manufacturers & Consumers Coal Co., 161 Ill. App. 534, p. 538.
 See *Merlo v. Johnston City & Big Muddy Coal & Iron Co.*, 173 Ill. App. 425, p. 430.

In an action by a miner for damages resulting from sickness caused by the alleged violation of the statute in that the mine operator wilfully failed to force into the working place of the complainant currents of fresh air by reason whereof great quantities of carbonic oxide, powder, smoke, gas, coal dust and deleterious air accumulated in consequence of which the complainant became ill, his system poisoned, and his throat, lungs and head affected and injured, there may be a recovery under evidence showing that the illness complained of could have been caused by such injurious conditions existing at the miner's working place and the jury may conclude that the violation of the statute complained of was the

proximate cause of the existing injuries and illness, where there was a total absence of any proof tending to show the existence of any other conditions which could, under the evidence, have produced the same result.

King v. DeCamp Coal Min. Co., 161 Ill. App. 203, p. 204.

34. DOORS—DUTY TO EMPLOY ATTENDANTS—GOOD FAITH.

The principal purpose of section 19 is to provide for ventilation and doors are necessary to guide and direct the air currents. Clause (c) provides that all permanent doors used in guiding and directing the ventilating currents shall close automatically, and the existence of the necessary doors create a source of danger to those who are driving cars and the provision requiring an attendant in charge of each principal door is presumably that he may open it at proper times and with proper and suitable caution to prevent injury. It could not have been intended that a person stationed at a door to open and close it for the passage of cars would open it at improper times when collisions with other cars would probably result. The presence of an attendant performing his duty as required by the statute would tend to secure the safety of the driver and in view of the danger it was the purpose of the act to provide against dangers resulting from the existence of the necessary obstructions in the form of doors. It was not contemplated that an attendant would open a door whenever a car came along a track regardless of consequences and without the exercise of any care.

Himrod Coal Co. v. Stevens, 203 Ill. 115, p. 118;

Himrod Coal Co. v. Stevens, 104 Ill. App. 639, affirmed;

Madison Coal Co. v. Hayes, 116 Ill. App. 94, p. 97.

The failure on the part of a mine owner or operator to employ an attendant to open and close a door in a mine which is necessary for the ventilation of a portion of the mine, and through which trips of cars pass to and from the workings, is a wilful violation of this section of the statute, if the evidence shows that the door was a principal door in the mine.

Karkowski v. La Salle County Carbon Coal Co., 248 Ill. 195, p. 200.

The failure of a mine operator to station a trapper or attendant at a principal door to open and close the same when trips of cars are passing to and from the workings is a wilful omission to obey the statute and renders the mine operator liable to a driver injured by reason of such omission.

Karkowski v. La Salle County Carbon Coal Co., 154 Ill. App. 399, p. 403.

A driver put a sprag in the wheel of his car and came down an incline, through a crosscut with his mule on the run, the door closing the haulage way swung each way and closed automatically, and the custom was, in the absence of an attendant at the door for the mule to push it open with his nose and pass through then it would close after the car. On the particular occasion of the injury complained of the mule pushed the door open with his nose going through on a run and collided with another car at the junction by reason of which the driver was thrown off and injured. The mine operator was held liable in damages as for a wilful violation of the statute in failing to keep an attendant at the door as required by this section of the mining law.

Himrod Coal Co. v. Stevens, 203 Ill. 115, p. 116;

Himrod Coal Co. v. Stevens, 104 Ill. App. 639, affirmed.

See *Madison Coal Co. v. Hayes*, 116 Ill. App. 94, p. 97.

Section 19 of this statute requires all permanent doors in coal mines used in guiding and directing the ventilating currents to be hung so as to close automatically; and at all principal doorways through which cars are hauled an attendant shall be employed and stationed to open and close the doors. Clause (c) of this section was not enacted solely for the purpose of securing proper

ventilation of the mine, and the right to maintain an action for injuries, caused by the failure of the operator to comply with the statute in this respect, is not limited to cases of injury resulting from the want of necessary ventilation because of the failure to have doors so hung. Doors which close automatically are required for the protection of those who are in danger of receiving injury because of the necessity that the doors shall be closed after having been opened to permit passage through them. This rule applies to a driver who was compelled to open and close the doors and who was injured while closing a door.

Madison Coal Co. v. Hayes, 215 Ill. 625, p. 626;

Karkowski v. La Salle County Carbon Coal Co., 248 Ill. 195, p. 198.

If good faith would relieve the operation of a mine from the charge of a wilful violation of the statute, it must be the good faith of the operator of the mine and if the operator is a corporation then the good faith of its executive officers. The executive officers of a corporate mine operator must know that a certain doorway is a principal doorway at which a trapper should be employed, but by employing a man and calling him a mine manager the corporation could be relieved from liability by having him swear that he really and in good faith believed that it was not a principal doorway; and thus the benefit intended by the statute could be frittered away and the operator of a mine relieved from liability in every case.

Karkowski v. La Salle County Carbon Coal Co., 154 Ill. App. 399, p. 406.

In an action by a driver for damages for an injury under a count charging that the complainant was hauling coal from a certain stub-entry through a principal doorway in such entry and the mine operator wilfully failed and neglected to keep a trapper to open and close the same and on this account the complainant was injured, the complainant must prove, to entitle him to recovery, that the doorway where he received the injury was a principal doorway within the meaning of the statute.

Madison Coal Co. v. Hayes, 116 Ill. App. 94, p. 96.

See Himrod Coal Co. v. Stevens, 203 Ill. 115.

35. DOORS—PERMANENT, PRINCIPAL, OR TEMPORARY—MEANING.

Whatever the statute may mean by the term "principal doorway," certainly the doorway in a hauling way between which loaded cars pass and the door which must be kept closed or the workmen driven from some portion of the face of the coal from the lack of air, ought to be considered a principal doorway. The purpose of the statute was to protect the miners at work and a driver while driving his trip.

Karkowski v. La Salle County Carbon Coal Co., 154 Ill. App. 399, p. 403.

Any doorway is a principal doorway and within the meaning of this act, which is essential to the ventilation of any portion of the face of the coal where miners are at work and which is in frequent, regular and habitual use for the hauling of cars while coal is being mined.

Madison Coal Co. v. Hayes, 215 Ill., p. 625;

Karkowski v. La Salle County Carbon Coal Co., 248 Ill. 195, p. 198.

See Himrod Coal Co. v. Stevens, 203 Ill. 115;

Himrod Coal Co. v. Stevens, 104 Ill. App. 639.

The question as to whether or not a door in a mine is a "principal door" within the meaning of this statute is a question of fact.

Himrod Coal Co. v. Stevens, 203 Ill. 115;

Madison Coal Co. v. Hayes, 215 Ill. 625, p. 628;

Karkowski v. La Salle County Carbon Coal Co., 154 Ill. App. 399, p. 403.

See Karkowski v. La Salle County Carbon Coal Co., 248 Ill. 195, p. 198;

Himrod Coal Co. v. Stevens, 104 Ill. App. 639;

Madison Coal Co. v. Hayes 116 Ill. App. 94, p. 97.

The quantity of coal remaining to be mined in a mine or in any entry thereof furnishes no criterion for determining whether a door is a permanent door within the meaning of the statute. (Sec. 19.) If a door is to be used indefinitely, as long as it is necessary that a door be maintained at a particular place, it is to be regarded as a permanent door. So a door intended to be maintained as long as coal remains to be mined and removed is not a temporary door, but is a permanent part of the mine, and a permanent door within the meaning of this clause of the statute. The failure of a mine owner and operator to provide a door that will close automatically as required by the statute will render him liable in damages to a trip driver injured while attempting to close the door.

Madison Coal Co. v. Hayes, 215 Ill. 625, p. 628.

The fact that section 19 only requires an attendant to be kept at doorways, through which cars are hauled, to open and close the door shows that the legislators had in mind, when enacting the statute, something concerning the hauling of cars. They may have thought that if the drivers themselves undertook to open and close the doors they might sometimes leave them open. That the safety of the drivers was also contemplated is clear, as in some of the entryways in mines, where mules are used to draw trips which pass through doorways, the space between the load and the roof and the car and the sides of the doorways is frequently very slight. A driver could get off the front of his car, pass the mule, open the door and return to his seat without particular danger, but if he should let his loaded car pass, close the door and seek to regain his position on the car he might be imperiled or he might have no certain way of causing the mule to stop after passing through the doorway. Such a construction of the statute would not necessarily make all doorways through which cars were hauled principal doorways and would not give to the word "principal" its true significance.

Karkowski v. La Salle County Carbon Coal Co., 154 Ill. App. 399, p. 402.

In an action by a driver for damages for injuries under a count alleging that the complainant was employed by a mine operator as a driver and engaged in hauling coal from a certain entry through a certain doorway, and that such doorway was a permanent one used for the purpose of guiding and directing the currents of air, and that the mine operator willfully neglected and failed to construct such doorway so that it would close automatically, and that by reason thereof the complainant was injured, the complainant, in order to recover, must prove that the door used as alleged was a permanent door.

Madison Coal Co. v. Hayes, 116 Ill. App. 94, p. 96.

See Hinrod Coal Co. v. Stevens, 203 Ill., 115.

36. DOOR ATTENDANTS REQUIRED—PURPOSE OF STATUTE.

The legislative purpose in requiring the employment of an attendant at each particular door was to provide for the safety of those employed in the mine by its proper ventilation, and for the safety of drivers employed in a mine while passing to and from the workings therein through such principal doorways.

Halberg v. Citizen's Coal Min. Co. 149 Ill. App. 412, p. 414.

While the principal purpose of section 19 is to provide for the ventilation of a mine, the requirements of attendants at all principal doorways is not de-

signed solely for the protection against injuries arising from improper ventilation, but also to secure the safety of drivers from dangers resulting from the existence of the doors.

Himrod Coal Co. v. Stevens, 203 Ill. 115;

Madison Coal Co. v. Hayes, 215 Ill. 625;

Karkowski v. La Salle County Carbon Coal Co., 248 Ill. 195 p. 197.

See Himrod Coal Co. v. Stevens, 104 Ill. App. 639.

The statute is silent as to why and for what purpose doors are to be opened and closed by attendants. But the act requiring this was passed for the purpose of promoting the health and safety of persons employed in coal mines, and naturally all dangers to the health and safety of miners which an observance of the required provisions would obviate fell within the contemplation of the legislature. If the sole purpose of the provision requiring an attendant at each principal door was to secure ventilation, then the duty of opening the door could not be cast upon the attendant because it is a closed door that deflects the air current and prevents it from going in the wrong direction. The principal doors are usually placed near a point where entries join and near junction of mine tracks and at these points there is always danger of collision and it is reasonable to suppose the purpose of requiring the attendant to open the door was to promote safety to drivers and shield them from the dangers of collision.

Himrod Coal Co. v. Stevens, 104 Ill. App. 639, p. 643.

There is some ambiguity in the provisions of this act requiring an attendant at each principal door in a mine, but where a statute regulating the manner of conducting an industry is ambiguous or indefinite, a court will receive, as an aid to proper interpretation, the construction which practical persons engaged in the industry have placed upon it. And where a mine operator placed attendants or trapper boys at the principal doors in the mine, who were charged with the duty of flagging drivers and preventing them from coming together, courts will assume that the purpose of requiring an attendant was for the safety of the miners.

Himrod Coal Co. v. Stevens, 104 Ill. App. 639, p. 644.

37. CROSSCUTS—PURPOSE—FAILURE TO MAKE—LIABILITY.

It is a matter of general knowledge that the opening of crosscuts between entries in a mine develops and protects air currents forced by a fan through the mine and removes deleterious air, and the opening of such crosscuts greatly promotes the protection of miners from injuries from bad air, caused by an explosion of gases or otherwise; and it must be assumed that the legislature in providing for the opening of crosscuts intended to protect miners and if an entry could be extended to an indefinite distance without opening up a new crosscut, as the work advances, provided no room was turned off of the entry, the object of the law would be to some extent subverted. The meaning and intent of the statute is that crosscuts shall be opened up at intervals of 60 feet as entries are extended, and the failure to do so is a willful violation of the statute rendering the mine operator liable for injuries proximately resulting from such failure to comply with the statute.

Smith v. Moffat Coal Co., 151 Ill. App. 362, p. 366.

38. EMPLOYMENT OF BOYS—REPEAL—CHANGE OF AGE.

This act as to the prohibition of employment of boys under the age of 14 years in coal mines was repealed by implication by section 11 of the Child

Labor Act of 1903 and the age limit for employment of boys in coal mines was changed from 14 to 16 years.

Struthers v. People, 116 Ill. App. 481, p. 488.

39. FAILURE TO INSTRUCT OR WARN—LIABILITY.

Coal mine operator may be liable in damages for the death of a miner on the ground of a willful failure of the operator in failing to give special attention to and instructions concerning the time and manner of placing and discharging blasting shots, where the deceased miner was employed under his certificate showing he qualified to perform the work of a miner and where he was not employed as a shot firer, was not an experienced shot firer and the operator had in fact failed to give him any instructions concerning the time and manner of placing and discharging the blasting shots.

Kulvie v. Bunsen Coal Co., 253 Ill. 386, p. 388;

Wendzinski v. Madison Coal Co., ——— Ill. ———, 118 N. E. 435.

Where a person employed in a mine as a track layer, and while so engaged was ordered and required by an assistant mine manager or person acting as a mine manager to help certain timbermen to timber the roof of an entry, which work the track layer had never performed and of the dangers incident thereto he did not know, and where the mine manager failed to warn or instruct him, the mine operator is liable in damages for injuries to such track layer caused by a fall of slate and rock from the roof.

Tygett v. Sunnyside Coal Co., 140 Ill. App. 77, p. 78.

Where a mine manager or his assistant recklessly ordered a track layer into a place of danger without proper warning, the mine operator is liable for resulting injuries.

Kellyville Coal Co. v. Bruzas, 223 Ill. 595;

Tygett v. Sunnyside Coal Co., 140 Ill. App. 77, p. 83.

40. FELLOW SERVANTS—INSTANCES.

Fellow servants are those whose duties are such as to bring them into habitual association so that they may exercise a mutual influence upon each other promotive of proper caution, and under this rule neither the bottom nor top cages nor the engineer who operated the cage or elevator is a fellow servant with a miner carried in and out of the mine by the cage or elevator.

Illinois Third Vein Coal Co. v. Cioni, 215 Ill. 583, p. 589.

A hoisting engineer at a mine is not a fellow servant with the miners with respect to operation of the cages in which the miners are carried in and out of the mine where their respective duties do not bring them into association with each other, nor in any manner require them to act or co-operate with each other, their duties being entirely disconnected.

Spring Valley Coal Co. v. Patting, 210 Ill. 342;

Illinois Third Vein Coal Co. v. Cioni, 215 Ill. 583, p. 592.

41. DANGEROUS CONDITIONS OR PLACES—MEANING—DUTY TO MARK—PLEADING.

Section 18, in requiring a mine manager to see that all dangerous places are marked, imposed upon him the duty of marking the places himself or causing it to be done by some other person, and if he caused a dangerous place to be marked it can not be properly said that he did not mark the place.

Mengelkamp v. Consolidated Coal Co., 259 Ill. 395, p. 311.

The act of 1899 as amended by the act of 1907 was in force prior to July 1, 1911. It provided that a mine examiner should be required at all times, and

his duty was, to visit the mine before the men were permitted to enter. He was required to inspect all places where men are expected to pass or to work, and as evidence of his examination of all working places he must inscribe on the walls of each, with chalk, the month and day of the month of his visit.

Mygatt v. Southern Coal & Min. Co., 180 Ill. App. 150, p. 153.

What constitutes a dangerous condition in a mine is to be determined by the jury in an action for damages by a miner for injuries upon the circumstances of each particular case.

Wells v. Lumaghi Coal Co., 183 Ill. App. 404, p. 411;

Actitus v. Spring Valley Coal Co., 246 Ill. 232.

The language of section 18 clearly implies that all dangerous places in a mine shall be marked and made safe, whether of a permanent nature or made so by changed conditions; and it can make no difference that the condition became or was dangerous by reason of defective permanent conditions. If the dangerous condition in fact existed at the time the miner was allowed to enter the mine to work in the mine, the statute fixed the duties of those in charge of the mine, and a conscious failure to observe these duties is willful negligence.

Dunham v. Black Diamond Coal Co., 146 Ill. App. 140, p. 142.

The words "any dangerous conditions exist" as used in this statute clearly intend to cover all dangerous conditions which might exist in a coal mine which would endanger the life, limb, or health of men working in such mine and are not limited to dangerous conditions of the character only of "accumulations of gas or recent falls," but cover a dangerous condition in roof of an entry or room.

Mertens v. Southern Coal & Min. Co., 235 Ill. 540, p. 545.

See *Kellyville Coal Co. v. Strine*, 217 Ill. 516;

Henrietta Coal Co. v. Martin, 221 Ill. 460.

A miner under the statute is entitled to the benefit of the superior knowledge and experience of the officers charged with the duty of discovering such conditions in the mine; and if a dangerous condition is proved to be at any working place in the mine regardless of the object or purpose in producing such condition, then it must be marked, even though the condition may have been produced by the miner. If it is present at the time of the examination by the mine examiner, he must mark it as dangerous.

Wells v. Lumaghi Coal Co., 183 Ill. App. 404, p. 411.

The words "any dangerous conditions," used in section 18 of this act, apply to dangerous conditions in the track, the roadbed, or the sides of the entries, and include any dangerous conditions which may exist in a coal mine which endanger the life, limb, or health of one working in the mine, whether such conditions are of permanent character, due to faulty construction or of a temporary character due to operation.

Mengelkamp v. Consolidated Coal Co., 259 Ill. 305, p. 309.

See *Mertens v. Southern Coal Co.*, 235 Ill. 540.

The statute (sec. 18) applies to dangerous conditions in a mine such as in the track over which cars are drawn or in the roadbed or the sides of the entries by which the mine is traversed as well as dangerous conditions caused by the falling of rock and other débris.

Dunham v. Black Diamond Coal Co., 239 Ill. 459;

Mengelkamp v. Consolidated Coal Co., 173 Ill. App. 370, p. 375.

The condition of a track in a mine over which drivers must pass with their mules and cars is as much a physical condition and subject to examination

and marking by the mine examiner as required by the statute as the condition of the roof over a hauling way.

Felchner v. Consolidated Coal Co., 176 Ill. App. 411, p. 415.

It is a dangerous condition within the meaning of the statute where wooden rails are used to piece out or extend a railroad track in a mine, leaving a sharp decline with dangerous holes between car ties, by reason of which a miner was injured in an effort to prevent a car from escaping.

Leverich v. Danville Collieries Coal Co., 193 Ill. App. 627, p. 630.

A mine operator, who permits the railroad tracks and frogs over certain parts of an entry to be and remain uneven, out of line and in a dangerous and unsafe condition and fails to have his mine inspected and cause a conspicuous mark to be placed at such place of danger and permits a driver to enter the mine and work therein, not under the direction of the mine manager when such dangerous condition has not been made safe, is liable in damages to a driver of a car injured in a collision with a car that had been thrown from a track by reason of such dangerous condition of the rails and frogs, on the ground of the mine operator's wilful violation of the statute.

Davis v. Big Muddy Coal & Iron Co., 173 Ill. App. 162, p. 166.

See *Dunham v. Black Diamond Coal Co.*, 239 Ill. 459;

Mengelkamp v. Consolidated Coal Co., 173 Ill. App. 370, p. 375;

Felchner v. Consolidated Coal Co., 176 Ill. App. 411, p. 415.

It is sufficient, in an action by a miner for injuries, for the declaration to aver that the plaintiff was employed by the defendant as a miner or as a driver and that he was at the time of the injury working as such in the defendant's mine; that the track over which the complainant was required to haul coal was defective in that the ties underneath the track were rotten, the spikes loose and the condition of the track such as to cause the motor to swing and bounce and by reason thereof the complainant was thrown from the motor and injured; that such condition had existed for many weeks and that the mine operator had failed to cause the same to be marked as required by the statute and had permitted the miner to enter the mine and work in such dangerous place without having the same made safe.

Mengelkamp v. Consolidated Coal Co., 173 Ill. App. 370, p. 377.

See *Keller v. Chicago-Wilmington & Vermillion Coal Co.*, 184 Ill. App. 248, p. 250.

In an action by a driver for damages for injuries occasioned by the operation of his car by reason of an accumulation of gob at the side of the track, the mine operator can not escape liability on the ground that the mine examiner had not reported the particular condition as dangerous, where the accumulation of the gob was an obvious danger and had existed for a considerable time prior to the day of the accident and was one which the mine operator should have known of and removed prior to the alleged injury. The words "all conditions" used in the statute can not mean only such dangerous conditions as the report of the mine examiner may show to be such.

Olsen v. Kelly Coal Co., 143 Ill. App. 269, p. 273.

An entry in a mine the roof of which is so low as to be dangerous to employees and miners rightfully traveling therein is a dangerous condition within the spirit of the act that requires marking, and it is the duty of the operator to cause it to be conspicuously marked and a report and record made, and not to permit miners to use the entry until the dangerous condition is removed.

Maguani v. Spring Valley Coal Co., 193 Ill. App. 107, p. 108.

The mining statute does not describe the height of entries. The lawmakers understood that veins of coal differ in thickness and while a high entry would

be practicable in a thick vein it would not be so in a thin one; and it is not a dangerous condition within the meaning of the statute to have a low entry or an entry lower at one point than at another.

Jacobs v. Madison Coal Corp., 165 Ill. App. 444, p. 448.

A piece of loose slate projecting over the retaining wall of a roadway may be a dangerous condition although the mine examiner examined the place on the day of the accident and found no dangerous condition, but the fact that the slate was loose tends to show that the mine examiner failed to particularly examine the edges of the fall as required by the statute, and under such circumstances a mine operator is liable for injuries to a common laborer engaged in removing débris from the track in the roadway.

Demereski v. Citizen's Coal Min. Co., 149 Ill. App. 513, p. 515.

A block of coal sufficient in size to weigh from 300 to 500 pounds blown out of the face of the coal by shot firers in the course of mining operations and lying near the car tracks, is not such an obstruction or dangerous condition within the meaning of the statute as requires the mine examiner to place a conspicuous mark thereon and report the same as a dangerous condition in a mine.

Kean v. Jones Bros. Coal & Min. Co., 147 Ill. App. 319, p. 322.

Loose material on the floor at the entrance to a cross cut creates a dangerous condition within the meaning of the statute and a failure of the mine examiner to mark and report the same is a willful violation of the statute where such loose material had existed for some time; and it must be regarded as the direct and proximate cause for the injury complained of where a shot firer, after lighting the fuse or squib and in attempting to seek a place of safety, fell over and upon such loose material and was injured by the blast that followed.

Tomasi v. Donk Bros. Coal & Coke Co., 169 Ill. App. 47, p. 50.

*See *Tomasi v. Donk Bros. Coal & Coke Co.*, 257 Ill. 70, p. 73;

Davis v. Big Muddy Coal & Iron Co., 173 Ill. App. 162, p. 167.

The fact that men are engaged under the direction of the mine manager in cleaning up a coal mine after a shut down of several months and working under his general directions to make dangerous places safe, does not relieve the mine owner of the duty of having the mine examined by the mine examiner and the placing of a conspicuous mark on the dangerous places or conditions.

Piazzi v. Kerens-Donnewald Coal Co., 262 Ill. 30, p. 33;

Wilson v. Danville Collieries Coal Co., 264 Ill. 143, p. 146.

Section 18 is unreasonable on the theory that it would be impossible to operate a coal mine lawfully where hundreds of men are employed if none were permitted to enter until every dangerous condition had been made safe. But to say that a miner should not be permitted to enter the mine until some dangerous places distant from his working place and to which danger he would not be exposed should be made safe would be absurd. The purpose of the law is to protect the miner from exposure to dangers and from his own carelessness; to keep him away from dangers to which he would be exposed in the line of his employment until they are removed. If he is kept out of the mine there will be no exposure to danger. It is no strained construction to hold that it is a wilful violation of the statute to permit a miner to enter a mine to work where a dangerous condition exists and to which dangers he will be exposed, not under the direction of the mine manager.

Merlo v. Johnston City & Big Muddy Coal & Iron Co., 173 Ill. App. 425, p. 429.

The provisions of section 18 require a mine examiner to inspect and mark unsafe and dangerous conditions in working places and do not apply to machinery several hundred feet distant by which a trip hauler was injured, and do not apply to dangers and unsafe hauling tracks, but apply to physical conditions which make a working place dangerous.

Cook v. Big Muddy Min. Co., 249 Ill. 41;

Pate v. Gus Blair-Big Muddy Coal Co., 252 Ill. 198;

Felchner v. Consolidated Coal Co., 176 Ill. App. 411, p. 414.

Proof that an entry was in a "fair" condition is not sufficient to show that its condition was safe within the meaning of the statute.

Junction Min. Co. v. Ench. 111 Ill. App. 346, p. 353.

42. DANGEROUS CONDITIONS—PLACES ABOVE GROUND.

The words "in dangerous condition" used in section 18 are not limited to the dangerous conditions expressly specified in the act or to those of the same mine as those specified. The statute is broad enough to cover dangerous conditions existing at the top as well as at the bottom of the mine.

Fuchs v. Consolidated Coal Co., 157 Ill. App. 41, p. 45.

See *Spring Valley Coal Co. v. Greig*, 226 Ill. 511;

Dunham v. Black Diamond Coal Co., 239 Ill. 457;

Pierce v. Decatur Coal Co., 158 Ill. App. 192, p. 195.

The words "in dangerous condition" used in the statute apply to a dangerous condition at the top of the mine and at the tipple, where the coal cars were elevated and emptied at the tipple directly above the shaft, and the place was made dangerous by reason of the constant falling of lumps or pieces of coal while the cars were being emptied at the tipple and such lumps and pieces of coal falling down the shaft.

Fuchs v. Consolidated Coal Co., 157 Ill. App. 41, p. 45.

The provision in section 18 of this act making it the duty of the mine manager to see that all places both above and below were properly marked with danger signals was amended by the act of 1911 and the duty of the mine examiner to make examinations was limited to the underground workings of a mine.

Rogers v. St. Louis-Carterville Coal Co., 254 Ill. 104, p. 108.

Section 18 cannot by any construction be extended in its operation to a carpenter or to a place where a carpenter was employed by a coal mine operator to erect and repair buildings outside of the mine and to repair cars, and especially so where the injury sued for was the result of the carpenter's own negligence and forgetfulness in leaving a heavy timber in such a position that it subsequently fell upon him and injured him. The mine examiner is not under the statute required to examine and mark such a place as a dangerous place.

Rogers v. St. Louis-Carterville Coal Co., 254 Ill. 104, p. 107.

See *Donaldson v. Spring Valley Coal Co.*, 175 Ill. App. 224, p. 229.

43. DANGEROUS CONDITIONS—ELECTRICAL APPLIANCES—EXCESSIVE VOLTAGE.

The dangerous conditions contemplated by section 18 clearly include a live wire so placed in the mine that a driver or his mule is exposed to contact therewith while in the mine, and from which an injury might result.

Dunham v. Black Diamond Coal Co., 239 Ill. 457, p. 459;

Mengelkamp v. Consolidated Coal Co., 173 Ill. App. 370, p. 375.

The presence of a live uninsulated electric wire in an entry with which a driver or mule might come in contact, is a dangerous condition within the meaning of section 18 which it is the duty of a mine examiner to discover and report.

Dunham v. Black Diamond Coal Co., 239 Ill. 457.

See Mengelkamp v. Consolidated Coal Co., 259 Ill. 305, p. 309.

The maintenance of an imperfectly insulated electric wire in an entry through which men pass in such a position that they are likely to be exposed to contact with it is a dangerous condition in the mine within the meaning of this section, which is the duty of the mine examiner to observe and mark.

Dunham v. Black Diamond Coal Co., 239 Ill. 457.

See Pate v. Gus Blair-Big Muddy Coal Co., 252 Ill. 198, p. 205;

Mengelkamp v. Consolidated Coal Co., 259 Ill. 305, p. 309.

A wire cable extending from an engine room to the cars used to haul coal up an incline and which swayed violently when the engine was in motion and hauling the cars at a rapid rate of speed, and near which the engineer was required to stand when watching the cars to tell when they reached their destination and stop the engine, and by reason of which the engineer was killed, was a dangerous condition at the working place of the engineer which the mine manager should have discovered and marked. And under such circumstances the place where the engineer was working and the machinery with which he performed his work constituted a part of the mine which the operator was required by the statute to have examined for the purpose of determining whether the place for employees to work in was safe.

Spring Valley Coal Co. v. Greig, 226 Ill. 511.

See Pate v. Gus Blair-Big Muddy Coal Co., 252 Ill. 198, p. 205;

Rogers v. St. Louis-Cartersville Coal Co., 254 Ill. 104, p. 108;

Spring Valley Coal Co. v. Greig, 129 Ill. App. 386, p. 392.

The carrying of a 550 voltage or any voltage in excess of 275 volts is a violation of section 17 of the act of 1911, and renders a mine operator liable for any resulting injury.

Smith v. Consolidated Coal Co., 183 Ill. App. 572, p. 574.

A voltage in excess of that prohibited by section 17 of the act of 1911, must be regarded as the proximate cause of an injury to an employe and machinist, employed to keep the coal cutting machines in running order, where he sustained injuries because of an electric shock while taking a file from a box on the motor with which to make necessary repairs.

Smith v. Consolidated Coal Co., 183 Ill. App. 572, p. 576.

An employee engaged in repairing machines is entitled to recover damages for injuries caused by an electric shock where he put his hand in a tool box on a motor used by the motorman to hold certain tools, and into which the motorman had placed the file of the machine, and where, in attempting to remove the file, it became connected with the current generated for the motor and by reason of which the machinist received the injuries complained of and where the evidence showed that the voltage carried exceeded 275 volts.

Smith v. Consolidated Coal Co., 183 Ill. App. 572, p. 574.

44. DANGEROUS CONDITIONS—DETERMINATION—GOOD FAITH.

If a dangerous condition exists in a working place in a mine the mine examiner has no authority to determine that the place is not dangerous contrary to

the fact, and the mine owner cannot excuse himself for a failure to mark the place on that ground.

Eldorado Coal & Coke Co. v. Swan, 227 Ill. 586;
Cook v. Big Muddy-Carterville Min. Co., 249 Ill. 41, p. 51;
Hollingshead v. Wabash Coal Co., 142 Ill. App. 641, p. 644.

A mine operator who fails to mark dangerous places can not avoid liability on the ground that he had the mine examined and in good faith thought it was not dangerous.

Aetitus v. Spring Valley Coal Co., 246 Ill. 32;
Piazzi v. Kerens-Donnewald Coal Co., 179 Ill. App. 540, p. 544.

In an action by a miner for damages for injuries caused by the failure of the mine examiner to mark a dangerous place it is proper to refuse to permit the mine examiner to testify as to whether or not the entry or place in question was safe or otherwise. The determination of a mine examination that a place was safe although made in good faith does not excuse a mine operator from liability for failure to cause the place to be marked if it was in fact dangerous.

Gibson v. Wasson Coal Co., 190 Ill. App. 599, p. 602;
Leverich v. Danville Collieries Coal Co., 193 Ill. App. 627, p. 630.

The liability of a mine owner or operator as to the examination required does not rest upon the ground that in good faith or bad faith he thought there was no danger in the mine but upon the ground that he has, knowing the facts which made the mine dangerous, failed to have the statutory marks properly placed in the mine. When a mine owner or operator is advised of the conditions in a mine he must place in the mine, if it is dangerous, the statutory marks and if he fails to do so, he acts at his peril and he cannot excuse himself because he or his mine examiner or manager may think the mine safe, as this would permit the mine owner or operator or his examiner or manager to usurp the jurisdiction of the court or jury and pass upon a question which is a matter of principle and needs to be determined as a fact by a jury.

Aetitus v. Spring Valley Coal Co., 246 Ill. 32, p. 37.
See Catlett v. Young, 143 Ill. 74;
Odin Coal Co. v. Denman, 185 Ill. 413;
Davis v. Illinois Collieries Co., 232 Ill. 284;
Eldorado Coal & Coke Co. v. Swan, 227 Ill. 586;
Mertens v. Southern Coal & Min. Co., 235 Ill. 540;
Olson v. Kelly Coal Co., 236 Ill. 502;
McCarthy v. Spring Valley Coal Co., 232 Ill. 473;
Piazzi v. Kerens-Donnewald Coal Co., 262 Ill. 30, p. 33;
Aetitus v. Spring Valley Coal Co., 150 Ill. App. 497, p. 504;
Vaughn v. O'Gara Coal Co., 173 Ill. App. 268, p. 276;
Noonan v. Saline County Coal Co., 173 Ill. App. 541, p. 546.

The fact that a mine examiner honestly concluded that a certain condition in a mine was not dangerous cannot relieve the mine operator from liability for an alleged violation of the statute where the evidence sufficiently showed that the place in controversy was in fact dangerous.

Lodi v. Spring Valley Coal Co., 193 Ill. App. 234, p. 236.

42. DANGEROUS CONDITIONS—KNOWLEDGE OR WANT OF KNOWLEDGE—CARE REQUIRED.

An operator of a coal mine is liable under the statute not only when the dangerous conditions have been discovered by him but also if by the exercise of care required by the statute he could have discovered the existence of such conditions.

Feebler v. O'Gara Coal Co., 239 Ill. 370, p. 374;
Brown v. Kelly Coal Co., 162 Ill. App. 65, p. 68;
Mengelkamp v. Consolidated Coal Co., 173 Ill. App. 370, p. 378.

A dangerous place or condition in a mine need not be present or immediately pending. Safe and proper mining demands that probable, as well as present, conditions be guarded against.

Pareba v. Illinois Midland Coal Co., 156 Ill. App. 140, p. 143.

The statute does not contemplate that a mine owner shall be relieved from liability for an injury resulting to men working in his mine, in consequence of a dangerous condition in a mine of which he had actual notice, by reason of the fact that he has not received notice of such condition through the channel of the report of his mine examiner.

Olson v. Kelly Coal Co., 236 Ill. 502, p. 505.

A mine operator cannot be held liable on the ground of a wilful violation of the statute for the failure of the mine examiner to discover and mark a dangerous condition of the roof, where there were no physical facts that were visible or that could be ascertained by the means required by the statute and there was nothing to indicate a dangerous condition.

Wilkins v. Madison Coal Corp., 188 Ill. App. 416, p. 417.

46. DANGEROUS CONDITIONS—MARKING—WHAT CONSTITUTES.

It is not a compliance with the statute for a mine examiner to place an inscription on a small piece of board on the gob 18 feet back from the working face where the dangerous place actually existed.

Mertens v. Southern Coal & Min. Co., 140 Ill. App. 190, p. 192.

A mine operator may be liable for a wilful violation of the statute to a miner injured by an explosion in the mine, where such explosion occurred in an abandoned room into which the miner and his buddy had taken a car of refuse or waste, and the miner was injured by reason of an explosion of gas, the accumulation of which had existed in the room for several weeks prior, and of which the mine operator had actual knowledge. The fact that the mine examiner had placed on a board at the right of the entrance to the room the words "gas" or "gas in room" or "gas in hole" and had placed a tie across the end of the rails toward the face with a like notice thereon written in chalk, is not sufficient to relieve the operator from liability where it appeared that the words and marks so placed were not intended to keep the miners out of the particular room, but were merely intended as precautionary signals, and where the injured miner was at liberty to unload the cars of refuse in any proper and appropriate place and where the room in which he was injured was properly used as a room in which to unload refuse material.

Turner v. Manufacturing & Consumers Coal Co., 161 Ill. App. 534, p. 538.

See *Merlo v. Johnston City & Big Muddy Coal & Iron Co.*, 173 Ill. App. 425, p. 430.

A coal mine operator has discharged his duty under the statute when he obtains a duly certified examiner to examine the mine, and who marks the dangerous places with chalk and makes his report of the conditions of the mine as required by the statute; and the fact that there was so much water and dampness in the part of the mine where a miner was subsequently injured that the mine examiner's marks would often become invisible in a few minutes after they were made, would not show a wilful violation of the statute on the part of the mine operator, but would only show an imperfect performance of duty on the part of the mine examiner.

New Virginia Coal Co. v. Gower, 119 Ill. App. 1, p. 4.

See *Taylor Coal Co. v. Dawes*, 122 Ill. App. 389, p. 394.

Company-men are presumably skilled in caring for and keeping safe the mine and when called upon by a mine manager to remedy a defect or danger in the roof and in doing so they render the roof unsafe, it would be unreasonable to require a mine examiner to be present at all times to mark places which, while in the performance of their work, the company-men have themselves rendered unsafe. It is not necessary and it is not required that a danger mark be placed upon a rock as each new danger arises during the progress of the work, and particularly so where an assistant mine manager points out to the company-men the particular danger.

Paietta v. Illinois Zinc Co., 257 Ill. 11, p. 17.

47. DANGEROUS CONDITIONS—FAILURE TO MARK—LIABILITY.

Section 18 of the act of 1899 is an amendment of section 4 of the act of 1879 which required a mine to be examined, but it did not provide for the giving of a warning by a mark at the place of danger.

Kelleyville Coal Co. v. Strine, 217 Ill. 516, p. 522.

It is the duty of the mine operator to have his mine examined, and if dangerous conditions are found, to have them designated by the statutory marks, and a failure in either particular with knowledge of the dangerous condition or with knowledge of the facts from which he ought to have known of its dangerous condition, he is liable to an employee injured as a result of his wilful failure to obey the statute.

Aetitus v. Spring Valley Coal Co., 246 Ill. 232;

Cook v. Big Muddy-Carterville Coal & Min. Co., 249 Ill. 41;

Brown v. Kelley Coal Co., 162 Ill. App. 65, p. 68;

Jacobs v. Madison Coal Corp., 165 Ill. App. 444, p. 446;

Piazzi v. Kerens-Donnewald Coal Co., 179 Ill. App. 540, p. 544.

See *Smith v. Illinois Collieries Co.*, 155 Ill. App. 148;

Mengelkamp v. Consolidated Coal Co., 173 Ill. App. 370, p. 380.

Where a mine examiner failed to use reasonable diligence to discover dangerous places in an entry and had not placed a danger signal or the required marks on such dangerous place, and where the mine manager or his assistant recklessly ordered a miner in the place of danger without proper warning, the mine operator is liable in damages for any resulting injuries.

Kelleyville Coal Co. v. Bruzas, 223 Ill. 596;

Smith v. Illinois Collieries Co., 155 Ill. App. 148, p. 150.

A failure of a mine examiner to properly mark and record a squeeze in a miner's working place caused by leaving insufficient pillars to support the coal and in permitting a miner to enter his working place before such dangerous condition had been removed is a wilful violation of the statute.

Wulner v. Smith-Lohr Coal Co., 145 Ill. App. 486.

See *Haywood v. Dering Coal Co.*, 145 Ill. App. 506;

Kedes v. Christian County Coal Co., 149 Ill. App. 434, p. 437.

It is a wilful violation of this statute for a mine examiner to fail to ascertain the condition of a pillar or supporting wall of coal through rooms and mark and report the place as dangerous, where such dangerous condition had existed for some days, and was in fact dangerous when the men went into the mine on the morning of the day the miner received the injuries complained of.

Francis v. Tazewell Coal Co., 157 Ill. App. 457, p. 483.

The mine manager may not be required to perform the personal duty to mark a dangerous place; but an averment in a declaration to the effect that it was

the duty of the mine manager to see that a certain dangerous place was marked or danger signals placed thereat and avering his failure so to do is sufficient to show a breach of a statutory duty.

Mengelkamp v. Consolidated Coal Co., 173 Ill. App. 370, p. 379.

See LeGru v. Penwell Coal Mining Co., 149 Ill. App. 555.

Where the evidence shows that from the entrance of a room to the face of the coal was an upgrade so that cars had to be spragged in taking them out of the room and the curve at the mouth of the room was very sharp and the rail on the outside of the curve was lowered, and cars had been derailed at such point and the mine manager notified of the condition several days previous to the accident resulting in the injury to the complainant and was requested to have the dangerous condition made safe; and where it appeared that the mine examiner himself passed over the place and examined the room but placed no mark or danger signal at the dangerous place and made no report thereof, it is sufficient to show a failure to comply with the provisions of the statute and to render the mine operator liable.

Felchner v. Consolidated Coal Co., 176 Ill. App. 411, p. 413.

When a mine operator is advised of a dangerous condition in his mine, he must place the statutory marks thereon, and if he fails to do so, he acts at his peril and can not excuse himself on the ground that the mine examiner or mine manager thought the place was safe.

Wells v. Lumaghi Coal Co., 183 Ill. App. 404, p. 412.

Section 21 of the statute of 1911, requires a mine examiner on discovering a dangerous condition in a room, to take the miner's check and deliver it to the mine manager, who should withhold it until all dangerous conditions are made safe, and not permit the miner to enter the room except for the purpose of making it safe. The failure of a mine examiner to mark the dangerous place and to take the miner's check as required is a violation of the statute, and the fact that a miner entered the mine and his working place and had actual notice and knowledge of the dangerous condition will not defeat his action for damages for injuries for the wilful violation of the statute.

Davis v. Missouri & Illinois Coal Co., 186 Ill. App. 478, p. 485.

Where the roof of a mine was in a dangerous condition on the morning of a particular day and it appeared in an action by a miner for injuries caused by the fall of rock from the roof at such dangerous point, a jury may be justified in concluding that the mine examiner did not examine the room on that morning, or if he did examine it and discovered its condition, failed to comply with the statute by indicating by proper marks its dangerous condition and noting the same in his record and reporting it to the mine manager.

Mertens v. Southern Coal & Min. Co., 235 Ill. 540, p. 544;

Peebles v. O'Gara Coal Co., 239 Ill. 370, p. 373.

It is the duty of a mine operator to comply with the provisions of section 18 requiring him to make an examination of the roof of a mine and to mark thereon by conspicuous mark all dangers and unsafe conditions and to keep a record of the same, and a timberman whose duty it is to make dangerous places safe, and though injured while working under the direction of a mine manager, is entitled to recovery on the ground of a wilful violation of the statute where the mine examiner had failed to mark a dangerous place in the roof as required by the statute and which the timberman at the time was engaged in repairing.

Wilson v. Danville Collieries Coal Co., 184 Ill. App. 180, p. 182;

Wilson v. Danville Collieries Coal Co., 171 Ill. App. 65.

A coal mine operator may be liable in damages for the death of a car driver on the ground of a wilful failure to comply with the requirements of the statute in that a certain place in the haulage way the low roof of the entry scraped or dragged the coal from the loaded cars and thereby caused an accumulation of coal on the track amounting to a dangerous condition; and where it was charged and shown that the accumulation of the coal caused a coal car to be thrown from the track and the driver injured and where it also appeared that the mine examiner failed to examine and mark or report such dangerous condition.

Mengelkamp v. Consolidated Coal Co., 259 Ill. 305, p. 309;

Crooks v. Tazewell Coal Co., 263 Ill. 343, p. 345.

A mine examiner by the proper examination of an entry or working place where a miner was required to work would have found the roof or place dangerous, and had he made a record to that effect and placed a conspicuous mark as required by law, it must be presumed that a miner would not have been permitted to enter the mine and would not have entered it for the purpose of mining until the conditions had been made safe.

Henrietta Coal Co. v. Martin, 221 Ill. 468;

Davis v. Missouri & Illinois Coal Co., 186 Ill. App. 478, p. 485.

In an action by a miner for damages for injuries caused by the alleged violation of the statute on the part of the mine manager to properly mark a dangerous place and display signals, the words "display danger signals" may be treated as surplusage after plea filed, and where other allegations are sufficient to charge the mine manager with the failure to mark all dangerous places.

Dunham v. Black Diamond Coal Co., 146 Ill. App. 140, p. 143.

When working places are discovered in which any dangerous conditions exist a mine examiner must place a conspicuous mark thereat as a notice to all men to keep out and at once report his finding to the mine manager. That a dangerous condition existed at a place in question, was shown by the evidence. It also appeared that the examiner did not sound the place of most imminent danger and wholly failed to comply with the requirements of the statute as to marking and reporting the place as dangerous. Under such circumstances it was a proper question for the jury to determine whether the neglect of the mine operator was wilful or not.

Stanbans v. Paradise Coal & Coke Co., 169 Ill. App. 75, p. 80.

In the examination of a mine a mine examiner discovered a clod in the roof and sounded it with his pick and as it sounded solid he placed no danger mark at that place, subsequently a miner while working in that part of the mine was injured by the fall of clod. The liability of the mine operator on the ground of a wilful failure to place a conspicuous mark at the dangerous point would depend on whether from the nature of the clod and the condition of the roof the clod was likely to fall and the place should have been marked by the examiner as dangerous was a question of fact for the jury to determine in the trial of the action for damages by the injured miner.

Plazzl v. Kerens-Domnewald Coal Co., 262 Ill. 30, p. 33.

See *Wilson v. Danville Collieries Coal Co.*, 264 Ill. 143 p. 146.

48. DANGEROUS CONDITIONS—MARKING NOT REQUIRED.

Company-men were directed to blow off a portion of the roof of an entry in order to increase the height of the entry for working purposes. After the first shot was fired it was discovered that the shock had loosened a rock in the roof near where the shot had been placed and the company-men were immediately notified by the assistant mine manager to remove the rock before a second

shot was fired. Under such circumstances the statute does not require a mine examiner, or any one else to mark the rock with a danger signal as this would be a useless thing and would add nothing to the knowledge or safety of the company-men who were directed to remove the loosened rock.

Paietta v. Illinois Zinc Co., 257 Ill. 11, p. 17.

Where a mine manager discovered a loose and dangerous rock in the roof and called the attention of experienced miners to the rock and its danger and directed them to take it down and remove the dangerous condition, the statute under such circumstances does not require that the mine examiner shall place a mark on the rock. No danger signal is required to inform the miner that when he is taking down a rock it will fall as soon as its supports are removed. The very duty upon which he is engaged is to make the rock fall and a danger signal is not required to inform him that it will fall upon any person who stands under it when it comes down.

Paietta v. Illinois Zinc Co., 153 Ill. App. 506, p. 509.

A coal mine driver sued the mine operator for damages for injuries occasioned by a large block of coal weighing from 300 to 500 pounds, blown by shots some 30 feet from the face of the coal and about 9 inches outside of the car tracks. The cause of action was based on the alleged violation of the statute in that the mine examiner failed to mark and report the dangerous place and cause the same to be removed before the driver and other employees were permitted to enter the mine. The evidence on the trial of the case showed that the shooting down of the coal, the gathering of it up by the loaders and loading it in cars and the hauling of such loaded cars away by the mules in charge of their drivers, were all consecutive parts of the ordinary work of mining coal. It cannot be supposed that the statute intended that a mine examiner should mark as an obstruction, or as an unsafe condition, all pieces of coal of any considerable size blown out by the shot-firers in the course of mining and lying on or near to the tracks. The block of coal did not constitute such an obstruction or unsafe condition within the meaning of the statute as to require the mine examiner to conspicuously mark it as unsafe or to make special report of it in his record.

Kean v. Jones Bros. Coal & Min. Co., 147 Ill. App. 319, p. 322.

In an action by a miner for damages for injuries occasioned by a fall of coal on the alleged ground that the mine operator had wilfully failed and neglected to comply with the provisions of the statute in that he did not properly mark and display a danger signal at the bank of coal that fell and occasioned the injury complained of, an instruction authorizing a verdict for the complainant if the jury found that the dangerous condition was known to the mine manager and he did not personally properly mark and display a danger signal at the bank of coal is error for the reason that it authorized a recovery for the violation of an alleged duty not imposed by the statute.

Parrish v. Black Diamond Coal Co., 143 Ill. App. 118, p. 122;

Le Gru v. Penwell Coal Co., 149 Ill. App. 555, p. 558.

49. DANGEROUS CONDITIONS—RECORDS—WHAT CONSTITUTE.

Entries made in a book consisting of a set of printed reports, dated and signed by the mine examiner, occasionally adding something to the printed matter, as a report of a daily examination of a mine is not a compliance with the law; especially where the book was not kept in the office but in a small engine room not practically accessible to 400 miners, drivers, and laborers.

Marquette Third Vein Coal Co. v. Allison, 132 Ill. App. 221 p. 232;

Henrietta Coal Co., v. Martin, 221 Ill. 460.

A mine examiner marked the figures on the wall of an entry to indicate the month and day of his visit, but made no conspicuous mark at the place as notice to all men to keep out. In the record of his examination he stated that the working place in controversy and of the miner named needed bars, thereby indicating that it was unsafe. The mine operator can not escape liability for damages for an injury to a miner who was permitted to enter the mine and begin work in his working place, although the timbermen had been sent to the place to put in the proper bars as indicated by the mine examiner.

Hollingshead v. Wabash Coal Co., 142 Ill. App. 641, p. 645.

50. DANGEROUS CONDITIONS—WORK UNDER MINE MANAGER—MEANING.

The statute absolutely forbids a mine manager to permit any employee while at work to be exposed to any danger found by the mine examiner, unless under his directions, until the dangers are made safe. The principal object of the statute in having the mine examiner to mark and report the dangers to the mine manager is that the mine manager may find them and make them safe. The danger signals also are to prevent other employees from casually going to such danger while in the mine; but as to all employees who will be exposed to the danger while at work or going to and from work, the statute is mandatory and they must not be allowed to enter the mine for work unless under the direction of the mine manager.

Pate v. Gus Blair-Big Muddy Coal Co., 158 Ill. App. 578, p. 583.

Where it is shown that a dangerous condition existed in a mine, it is a violation of the statute to permit anyone to enter the mine to work therein, except under the direction of the mine manager until such conditions have been made safe.

Stanhaus v. Paradise Coal & Coke Co., 169 Ill. App. 75, p. 81.

Under the provision that no one shall be allowed to enter a mine or work therein "except under the direction of the mine manager until all conditions shall have been made safe," where dangerous places have been discovered in a mine and marked and the mine manager has directed experienced rockmen to make such places safe, then anything which brings the conduct of the rockmen reasonably within the control of the mine manager in the performance of the particular duties would be a compliance with the statute. The statute cannot be held to mean that the mine manager must be personally present superintending the work of experienced rockmen or miners at each particular dangerous place.

Kellyville Coal Co. v. Bruzas, 223 Ill. 595, p. 597;

Plazzi v. Kerens-Dannewald Coal Co., 262 Ill. 30, p. 33;

Kellyville Coal Co. v. Bruzas, 125 Ill. App. 464;

Tygett v. Sunnyside Coal Co., 140 Ill. App. 77, p. 83.

See *Wilson v. Danville Collieries Coal Co.*, 171 Ill. App. 65, p. 69.

Section 21, clause b, should not be interpreted to mean that the mine operator must be personally present at all times while the conditions are being made safe as that would be impractical. There may be many places in a mine which require repairs and work at the same time to make all conditions safe and the statute can not mean that there must be as many mine managers as there are places which require repair on any given night, but the statute means that the men who enter and work in the mine to change unsafe conditions existing shall do so under the direction of the mine manager.

Paletta v. Illinois Zinc Co., 153 Ill. App. 506, p. 509.

This statute provides that no one shall be allowed to enter a mine to work therein except under the direction of the mine manager, until all conditions shall have been made safe. But the statute cannot receive too strict a construction, and the provision "except under the direction of a mine manager" should receive a liberal construction and one that will render the statute capable of practical enforcement. It cannot be held to mean that the mine manager must be personally present and direct experienced miners specifically as to what they should do and how they should do it in the matter of making a dangerous condition safe. In a large mine with a large number of rooms or entries where dangerous places are discovered, and a mine owner and operator has employed a competent licensed mine manager and competent rockmen, and the mine manager has been informed by the report of the examiner as to the various dangerous conditions and that the proper danger signal has been placed thereon, as required by the statute, and the mine manager determines that the rock gang shall enter the rooms and entries for the purpose of removing or repairing such dangerous conditions and he orders experienced miners to make such place safe, the miners who are so ordered to make the place safe must be held to be working under the direction of the manager, within the meaning the statute, though he is not personally present at each particular dangerous place in person directing the work.

Kellyville Coal Co. v. Bruzas, 223 Ill. 595, p. 597;

Kellyville Coal Co. v. Bruzas, 125, Ill. App. 464;

Tygett v. Sunnyside Coal Co., 140 Ill. App. 77, p. 83;

Wilson v. Danville Collieries Coal Co., 171 Ill. App. 65, p. 69.

The statute does not require that the mine manager must be personally present at all times while conditions are being made safe; but the statute is observed if the men who enter the mine to change unsafe conditions, shall do so under the direction of the mine manager. Where a miner when injured was not in his room to work therein except under the direction of the mine manager and had only been permitted to enter the mine for the purpose of propping up his room under the direction of the mine manager and making it safe, then he cannot recover for an injury. Under such circumstances it is a question of fact for the jury whether the miner when injured had been permitted to enter the mine as a miner mining coal or as a company man and was working under the directions of the mine manager making conditions safe.

Driza v. Jones & Adams Coal Co., 171 Ill. App. 139, p. 144.

The provision in the statute that the operator of a mine may permit a miner to enter the mine to work under the direction of the mine manager even when unsafe conditions exist, means that the manager under such conditions will be vigilant to care for the safety of the men under his charge. But where instructions given by a mine manager to a miner or employee were only intended to make a dangerous place temporarily safe, and where the construction of the roof was such that dangerous changes might occur at almost any time, and the manager gave no further attention to the place or the men, and three days later the dangerous changes having taken place a fall occurred by which a miner was injured the mine operator cannot escape liability as the miner under such circumstances was not engaged at the time of his injury in making a dangerous place safe, where at the time of his injury he was engaged in removing the fall from the track and clearing the entry so cars could pass and had no instructions to make the dangerous place safe other than that originally given him for temporary purposes.

Sellars v. Peabody Coal Co., 173 Ill. App. 220, p. 225.

See Noonan v. Saline County Coal Co., 173 Ill. App. 541.

A mine operator who permits a miner to enter the mine to work therein otherwise than under the direction of the mine manager, knowing of the dangerous condition of the mine and before such dangerous condition has been made safe, is guilty of a conscious violation of section 18 of the statute that renders him liable to an injured miner for a wilful violation of the statute.

Olsen v. Kelly Coal Co., 236 Ill. 502, p. 506.

See *Odin Coal Co. v. Denman*, 185 Ill. 413;

Marquette Third Vein Coal Co. v. Dielie, 208 Ill. 116;

Kellyville Coal Co. v. Strine 217 Ill. 546;

Henrietta Coal Co. v. Martin, 221 Ill. 460;

Eldorado Coal & Coke Co. v. Swan, 227 Ill. 286;

Aetitus v. Spring Valley Coal Co., 246 Ill. 32, p. 41.

A complaint in an action by a miner for damages caused by a fall of rock from the roof of a mine is sufficient where it charges that on the morning of the day the complainant was injured, and before he entered the mine to work, his working place was in a dangerous condition and that the mine operator wilfully permitted, suffered and allowed him to enter his working place to work therein without the directions of or without being under the directions of the mine manager, before such dangerous place was made safe.

Peebles v. O'Gara, 239 Ill. 370, p. 371.

In an action by a miner for damages for injuries caused by a fall from the roof where the mine examiner had placed no mark on the place in the roof alleged to be dangerous, the court is not justified in instructing the jury to the effect that if the plaintiff was engaged in timbering the place in question where he was injured under the direction of the mine manager, then the finding should be in favor of the defendant operator, as the instruction in no way explains or makes clear what should be understood from the words "under the direction of the mine manager," and it cannot be said that the instruction is in the language of the statute.

Wilson v. Danville Collieries Coal Co., 264 Ill. 143, p. 147.

See *Mertens v. Southern Coal Co.*, 235 Ill. 540.

51. DANGEROUS CONDITIONS—CHANGES IN ACT 1911.

In the amendatory act or the revision of 1911 of the general mining act the legislature intended to relieve the mine owner from the duties cast upon him by the provisions of this act by omitting the expression "or other unsafe conditions" and "any other unsafe conditions." Thus a positive requirement was taken out of this act by positive legislative enactment. The effect of this change is to do away with the necessity of the mine examiner to mark or record "any other dangerous conditions" in the mine, and he is now required to mark and report the specific conditions named in the statute.

Mygatt v. Southern Coal & Min. Co., 180 Ill. App. 150, p. 159;

Wells v. Lamaghl Coal Co., 183 Ill. App. 404, p. 408.

The revision of the mining laws of 1911 requires the mine examiner to "observe whether there are any recent falls, or dangerous roofs, or accumulations of gas, or dangerous obstructions in rooms or roadways," and mark and report the same; but he is not required to examine or mark "any other dangerous conditions" as was required by the act of 1899 and the amendments of 1907. Specific duties pointed out by this revised act require that after inspection and examination the mine examiner discovers working places in which there are recent falls or dangerous roofs or dangerous obstructions, he must place a conspicuous mark or sign thereat as notice to all men to keep

out and to make a record of the fact in a book kept for that purpose; but he is no longer required to observe and report on dangerous conditions only as the enumeration of these particulars excludes the generals required in the former acts.

Mygatt v. Southern Coal & Min. Co., 180 Ill. App. 150, p. 159.
See *Wells v. Lumaghi Coal Co.*, 183 Ill. App. 404, p. 408.

Section 1 of the act of 1911 makes it the duty of mine examiners to examine the underground workings of a mine within twelve hours preceding every day on which the mine is operated and to inspect all places where men are required to pass or to work, and when working places are discovered in which there are recent falls or dangerous roofs or dangerous obstructions, to place a mark or sign as notice to all men to keep out. This act uses the term "dangerous obstructions," while the act of 1907 used the words "or other unsafe conditions." Dangerous conditions may exist from other causes than obstructions, but an obstruction may make a dangerous condition, and that is the character of obstruction meant by the language used in this act.

Eaton v. Marion County Coal Co., 257 Ill. 567, p. 570;
Mengelkamp v. Consolidated Coal Co., 259 Ill. 305, p. 309.

The words "or other unsafe conditions" and "any other unsafe conditions" which were in the act of 1907 were omitted in the subsequent revisions. It would be unreasonable to suppose that the legislature did not intend to change the operation of the law when these words were omitted. By the new act the mine examiner is not to be thereafter required to inspect and mark places that under the act of 1899 and the amendatory act of 1907 he was required to examine, inspect, and mark. The present requirement is that the mine examiner shall observe whether there are "any recent falls or dangerous roofs or accumulations of gas or dangerous obstructions in rooms or roadways," and it is only when he finds such conditions that he is required to place a conspicuous mark thereon.

Mygatt v. Southern Coal & Min. Co., 180 Ill. App. 150, p. 155.

The act of 1911 does not require the inspection and marking of "dangerous conditions" at the face of the coal, as the plain meaning of this amendatory act was to do away with such requirements. In expressly designating the particular places in the mine where inspection and marking should be made there is no doubt as to what was intended by the omission of the words employed in the former act, and the requirement found in the earlier acts to examine and mark dangerous conditions generally has been wholly eliminated from the law by this amendatory act.

Mygatt v. Southern Coal & Min. Co., 180 Ill. App. 150, p. 159.

The requirements of the statute for a conspicuous mark and a report relates only to working places and their physical condition and does not include other things, and this comes within the requirements of the constitution.

Cook v. Big Muddy-Carterville Mining Co., 249 Ill. 41, p. 47;
Pate v. Gus Blair-Big Muddy Coal Co., 252 Ill. 190, p. 204;
Mengelkamp v. Consolidated Coal Co., 259 Ill. 305, p. 310.
See *Felchner v. Consolidated Coal Co.*, 176 Ill. App. 411, p. 413.

52. DUTIES IMPOSED ON MINERS.

The statute makes it unlawful for a miner to enter a mine against caution or to disobey any order given in pursuance to the statute and implies that miners shall obey the rules adopted by a mine operator that are consistent with the statute. But a rule prohibiting a miner under any circumstances from leaving his working place before the hour fixed, and if he does he does

so at his peril, is unreasonable. The statute provides that a miner must be given an opportunity to leave the mine whenever he is prevented from further working, and no rule can be adopted in conflict with this right. The fact that a miner left his room because he was taken sick can not be held a violation of the statute or of any rule adopted by the mine operator.

Junction Mining Co. v. Ench, 111 Ill. App. 346, p. 349.

It is the duty of a miner under the statute to set all props and to place all braces necessary to keep his room in a safe working condition, and it is the duty of the mine operator to furnish such props of sufficient number and length when required or called for by the miner. Where a dangerous place had been properly marked by the mine examiner and the miner directed to set a prop and pursuant thereto the miner did set a prop, but where such prop was knocked or blown down it was the duty of the mine examiner to re-mark the place as dangerous on the morning following a report of same, and a failure to do so resulting in injury to the miner will not relieve a mine operator from liability, although the miner knew the place had been previously marked, the props set and that the prop was knocked or blown down, as any contributory negligence on the part of the miner in this respect would not be a defense.

Mertens v. Southern Coal Co., 235 Ill. 540, p. 548;

Kilduff v. Consolidated Coal Co., 164 Ill. App. 194, p. 198.

52. MINER'S WORKING PLACE—DANGER—RECOVERY FOR INJURY.

A coal miner injured by a fall of coal from the face of the room and by coal of the kind which would be taken down by the miner in the usual course of his work in mining coal, can not recover from the operator as there is no legal liability for an injury so received.

Munier v. Chicago & Carterville Coal Co., 180 Ill. App. 114, p. 118.

Under the revised mining act of 1911 there can be no recovery by a miner for injuries caused by the existence of a dangerous condition at the face of the coal. No duty is imposed upon the mine examiner either to mark or report such dangerous condition.

Mygatt v. Southern Coal & Min. Co., 180 Ill. App. 150, p. 169;

See Gliemas v. Spring Valley Coal Co., 159 Ill. App. 88.

There can be no recovery under this statute in an action by a miner for damages for injuries received while engaged in making a dangerous condition in his working room safe under the direction of the mine manager, on the alleged ground of a willful violation of the statute. In such case the miner is acting under the direction of the mine manager to make safe the condition of his working place, as his employment at the time of the injury was not that of a miner engaged in digging coal, but as an employee under direction to repair and make safe a dangerous working place; and while so engaged as a repairer, his duty and risks assumed were changed, and he was not then within the protection of the statute, and his injuries were not occasioned by a willful disregard of a statutory duty.

Gallatin Coal & Coke Co. v. Andrewzewski, 137 Ill. App. 1, p. 4;

Andrewzewski v. Gallatin Coal & Coke Co., 143 Ill. App. 418, p. 421;

Cappellin v. Jones & Adams Coal Co., 164 Ill. App. 267, p. 269.

The duty imposed by section 18 upon a mine examiner to observe all unsafe conditions in a mine before men should be permitted to enter it does not relate to the presence of standing powder smoke in a miner's room where such condition did not exist prior to the time the miner entered the mine but occurred subsequent to such time and while the miner was working therein. Neither can

the duty imposed by this statute upon a mine examiner relate to an unsafe condition of the roof causing the injury complained of, where the evidence shows that the unsafe condition of the roof did not exist before the miner entered the mine to work, and could not therefore be observed by the mine examiner, especially where the dangerous condition was caused by shots fired by the miner during the progress of his work in mining coal and at a time when the mine examiner had no opportunity and was not required to examine and report its condition.

Layman v. Penwell Min. Co., 142 Ill. App. 580, p. 586;

Schultz v. Burnwell Coal Co., 180 Ill. App. 693, p. 697.

In the absence of conspicuous marks at his working place, as notice to a miner of the dangerous condition of the roof of the entry and to keep out, he is justified in assuming that his working place has been examined and found to be free from danger, and that he can safely work therein.

Kellyville Coal Co. v. Strine, 217 Ill., 516;

Hollingshead v. Wabash Coal Co., 142 Ill. App. 641, p. 645.

In an action by a miner for damages for injuries caused by an alleged violation of the statute, the fact that the injured miner and those working with him were engaged in enlarging an entry or space to be used for an entry by making it both wider and higher, and were removing a part of the vein of coal left as the roof of such entry, did not change the nature of their duties, but they were simply engaged as miners in mining and loading coal and were paid for their work according to the amount of coal mined as other miners. They made changes in the conditions surrounding them as they proceeded with their work, but they would do this had they been engaged in opening out an ordinary room in a mine. They were not engaged in making a dangerous place safe or removing a dangerous condition as there were no dangerous conditions existing in the entry at the place in question at the time they were set to work. The evidence does not show that the work in which they were engaged was of a more dangerous character than the work of mining coal in other portions of the mine.

Stanhaus v. Paradise Coal & Coke Co., 169 Ill. App. 75, p. 80.

The requirements of this statute as to the inspection to be made by the mine examiner has no application to conditions at the face of the coal where the miner is working and as to coal that he is mining down.

Wells v. Lumaghi Coal Co., 183 Ill. App. 404, p. 410.

The mine examiner discovered and marked a dangerous place in the roof of a miner's room. The mark consisted of a cross at the dangerous place which indicated that a prop should be placed under the roof at the point marked. The miner on the same day in obedience to the mark placed a prop and continued working in the room with safety. On the afternoon of the same day the prop was knocked down by shots fired at the face of the coal. On the following morning the mine examiner discovered the prop down, observed the chalk marks previously made which were still plainly visible and marked on the face of the coal figures showing the date of inspection, which indicated that the mine had been inspected on that morning. The miner thereafter and on the morning of the same day entered his working place, saw the danger mark on the roof and also the figures indicating the inspection on the morning of that day. He began work in clearing away the gob in order to reset the prop and while so engaged was injured by a fall from the roof. Under such circumstances the mine operator can not be charged with a willful failure to comply with the statute on the ground that the mine examiner did not re-mark or re-trace the plainly visible chalk marks on the dangerous place in the roof, where it was the miner's

duty to prop or make safe the dangerous places when marked by the mine examiner.

Kilduff v. Consolidated Coal Co., 255 Ill., 617, p. 619.

A miner in an action for damages for injuries caused by an alleged wilful violation of the statute and who was injured in a part of the mine distant from his working place, brings himself within the statute where he shows that it was a custom in a mine for the men after the coal was loaded to notify the machine man that they were ready to have coal cut or ready for the machine, and that the miner was injured where pursuant to such custom he had gone to notify the machine man that he was ready to have coal cut or ready for the machine.

Souleyret v. O'Gara Coal Co., 161 Ill. App. 60, p. 63.

A miner injured by a fall of slate can not recover damages for injuries under an alleged violation of the statute in that the mine examiner failed to examine and mark the dangerous place in the miner's room, where the evidence shows that the dangerous place did not in fact exist at the time the examination was made and that the piece of slate, the fall of which caused the injury complained of, was loosened and made dangerous by the injured miner himself removing the coal from under the particular piece of slate.

Williams v. Orion Coal Co., 161 Ill. App. 65, p. 67.

See *Brown v. Kelly Coal Co.*, 162 Ill. App. 65, p. 66.

No liability on the part of the mine operator would arise from a dangerous condition where the miner or employee injured thereby was not in his working place.

Eaton v. Marion County Coal Co., 173 Ill. App. 444, p. 448.

See *Cook v. Big Muddy-Carterville Min. Co.*, 249 Ill. 41.

There can be no cause of action under the mining act for injury to an employee where such employee was not employed by the mine operator and where he was at the place at which he received the injury against the mine operator's will and where the place at which he was injured was not a part of the operator's mine and was not subject to the mining law.

Donaldson v. Spring Valley Coal Co., 175 Ill. App. 224, p. 229.

See *Rogers v. St. Louis-Carterville Coal Co.*, 254 Ill. 104.

54. MINER MAKING DANGEROUS PLACE SAFE—RECOVERY FOR INJURY.

The provision of section 18, which prohibits anyone from entering a mine to work until all conditions shall have been made safe, like the rule which requires a master to use reasonable diligence to furnish a reasonably safe place for his employees to work has no application to those whose duty it is to make dangerous places safe. The statute does not require that the mine examiner shall accompany the rockmen and personally direct them in removing dangerous conditions from a mine.

Kellyville Coal Co. v. Bruzas, 223 Ill. 595, p. 601;

Romeo v. Western Coal & Min. Co., 157 Ill. App. 67, p. 70;

Orlea v. Bansen Coal Co., 171 Ill. App. 175, p. 178.

See *Colorado Coal & Mining Co. v. Lamb*, 6 Colo. App. 255;

Kellyville Coal Co. v. Bruzas, 125 Ill. App. 464;

Tygett v. Sunnyside Coal Co., 140 Ill. App. 77, p. 83;

Edick v. Illinois Collieries Co., 149 Ill. App. 607, p. 608;

Wilson v. Danville Collieries Coal Co., 171 Ill. App. 65, p. 69.

A miner or employee who entered a mine where the conditions were dangerous under the direction of the mine manager to repair and make safe the conditions

of his working place, of which he was informed, can not recover damages in an action against the mine operator for injuries received while making the dangerous condition safe.

Gallatin Coal & Coke Co. v. Andrewzewski, 137 Ill. App. 1, p. 4;
Cappelin v. Jones & Adams Coal Co., 164 Ill. App. 267, p. 269.

A miner employed as a timberman and whose duty it was to make all dangerous places safe, and who was working at the time of an injury under the direction of the mine manager and was not permitted to enter the mine except under the direction of the mine manager, it was nevertheless the duty of the operator to comply with the other provisions of the statute which required him to make an examination of the roof of the mine and to mark thereon by a conspicuous mark all dangerous conditions and to make entry thereof in the book kept for the purpose of giving such miner and others who were working in the mine information concerning such conditions.

Kellyville Coal Co. v. Bruzas, 223 Ill. 595;
Smith v. Illinois Colliers Co., 155 Ill. App. 148;
Wilson v. Danville Collieries Co., 171 Ill. App. 65, p. 70;
Wilson v. Danville Collieries Co., 184 Ill. App. 180, p. 182;
Orlea v. Bunsen Coal Co., 171 Ill. App. 175.

A mine operator is not liable for the death of an employee and rockman who was killed by a fall of rock from the roof where the mine had been examined and the dangerous places marked, as required by the statute, and the rockman had been directed by the mine manager to enter the mine to repair and make safe such dangerous places and the rockman was killed while performing such work. The statute does not require the personal presence of the mine manager to superintend and direct in person the work of making the dangerous places safe.

Kellyville Coal Co. v. Bruzas, 223 Ill. 595, p. 598;
Piazzi v. Kerens-Donnewald Coal Co., 262 Ill. 30, p. 33;
Eslick v. Illinois Collieries Co., 149 Ill. App. 607, p. 608;
Wilson v. Danville Collieries Coal Co., 171 Ill. App. 65, p. 69.
See Kellyville Coal Co. v. Bruzas, 125 Ill. App. 464.

The conditions under which a miner may work at a dangerous place at his own risk are where the owner has complied with the law by having the mine examined, the dangerous place marked by the mine examiner, and the miner sent to that place by the direction of the mine manager to make safe the particular dangerous conditions there existing.

Piazzi v. Kerens-Donnewald Coal Co., 262 Ill. 30, p. 35;
Wilson v. Danville Collieries Coal Co., 264 Ill. 143, p. 146.

A miner who, while engaged in mining coal, reported a fall of slate to the mine manager and he thereupon and according to a custom of the mine and at and under a different contract and compensation was directed by the mine manager to assist in taking up the fall and making the dangerous place safe, can not at any time during the process of cleaning up and making the place safe change his status to that of a coal miner and render the mine operator liable for damages for injuries received during the time he was so engaged in assisting to make the dangerous place safe.

Cappelin v. Jones & Adams Coal Co., 164 Ill. App. 267, p. 269.
See Gallatin Coal & Coke Co. v. Andrewzewski, 137 Ill. App. 1, p. 4.

A miner who on reporting to the mine manager a fall from the roof was ordered by the mine manager under a custom of the mine to clean up the slate, under a different contract and for a different compensation. After he had cleaned up the fall and without reporting he proceeded to drill a hole in

the coal for the purpose of placing a shot and while so engaged and while passing through the neck of the room for the purpose of procuring oil for his lamp was injured by a fall of slate. Under such circumstances, the miner was not within the protection of the statute as his relation to the mine operator was not that of a miner engaged in digging coal, but that of an employee under the direction to assist in repairing and making safe a dangerous place.

Cappelin v. Jones & Adams Coal Co., 164 Ill. App. 267, p. 269.

A miner or company-man employed for the purpose of making dangerous places safe and working under the direction of a mine manager in making a dangerous place safe is entitled to receive and be informed of all dangerous places found by the mine examiner; and it is the duty of the mine examiner to mark such dangerous places conspicuously with a chalk mark for the benefit of such person employed to and engaged in making the dangerous places safe, as well as for other persons who might be required to enter the mine.

Smith v. Illinois Collieries Co., 155 Ill. App. 148, p. 151.

See *Romeo v. Western Coal & Min. Co.*, 157 Ill. App. 67, p. 70.

A mine operator may be liable for the death of a company-man employed for the purpose of making dangerous places safe, who was killed while engaged in the work of making a dangerous place safe where the mine manager failed to point out or indicate to the deceased or the persons working with him specifically any dangerous or unsafe places in the room, or where the result of the examination of the mine examiner was not by chalk marks or in any other way communicated to the deceased or the men who were working with him in making the dangerous places safe.

Smith v. Illinois Collieries Co., 155 Ill. App. 148, p. 151.

See *Romeo v. Western Coal & Min. Co.*, 157 Ill. App. 67, p. 70.

A miner employed to make safe the dangerous places in the mine, the conditions of which were obvious and apparent, is chargeable with full notice of such conditions where he has full opportunity and equal means of knowledge with the mine operator to observe such conditions. Under such circumstances the employee is not employed as a miner proper working at mining and if by reason of his employment to make safe such dangerous places he is injured, he can not recover where he was given no special directions by his foreman as to how to do the work but left to his own judgment to make the place safe, as in such undertaking the miner assumes the hazard of employment.

Orlea v. Bunsen Coal Co., 171 Ill. App. 175, p. 178.

See *Sellers v. Peabody Coal Co.*, 173 Ill. App. 220.

It is the duty of timbermen to work in unsafe places and make them safe as required by the statute, whenever and wherever directed by the mine manager. The mine manager is only performing his statutory duty when he sends timbermen to clean up a fall and make the place safe. No order was given which could have possibly changed the relations of the parties, and a mere direction on the part of the mine manager to the timbermen to hurry up with the work and assist in cleaning up the fall would not affect the result. A general order to do work in the usual course of employment does not constitute negligence or impose a liability on the operator.

Kalinski v. Williamson County Coal Co., 263 Ill. 257, p. 263.

Where in an action for damages by a miner injured by a fall from the roof, the mine operator who is defending on the ground that the roof where the fall occurred was a dangerous place and that the miner was engaged at the time of his injury under the direction of the mine manager in making a dangerous place safe, and therefore not within the statute, can not ask a reversal of the judgment

on the ground that the court erroneously permitted expert miners to testify on the trial of the case that the roof was in fact dangerous.

Sellars v. Peabody Coal Co., 173 Ill. App. 220, p. 227.

55. MINER WITHIN SCOPE OF EMPLOYMENT.

In an action by a miner for damages for injuries due to an alleged violation of the statute it must be made to appear by proper averments in the declaration that the complainant was at the time he received the injuries in the discharge of his duties under his employment.

Seghetti v. Berry Coal Co., 186 Ill. App. 263, p. 265.

A flagman in a mine must be regarded as acting within the scope of his employment and in the line of his duty at the time of an injury where he was assisting a driver in managing and driving his mules in hauling coal and where this was made a part of his duties, and where it appears that at the particular time he was assisting the driver under the express directions of the assistant mine manager.

Loftus v. Illinois Midland Coal Co., 181 Ill. App. 197, p. 200;

Loftus v. Illinois Midland Coal Co., 193 Ill. App. 454, p. 456.

Any miner working in a coal mine is a "workman" within the meaning of the statute when he is engaged in performing the character of labor which exposes him to the perils the statute was designed to protect him against.

Mount Olive & Staunton Coal Co. v. Rademacher, 190 Ill. 538, p. 541.

The statute does not require a mine owner to prop or secure the roof in a mine and the security of others than the miner does not seem to have been in view by requiring the supply of props and timbers for that purpose. The liability, where one exists, must be to those for whose benefit the statute was enacted.

Southern Coal & Min. Co. v. Hopp, 133 Ill. App. 239, p. 243.

A miner in order to get his pay on pay day had to and was directed to go to the mine manager at the bottom of the mine, and who, in returning to his working place where he had left his tools in accordance with the custom, was killed by an explosion of gas permitted to accumulate in an entry through which he was required to pass, and the accumulation of which gas had not been discovered and reported by the mine examiner. Under such circumstances, the mine operator owed the deceased miner the statutory duty of examining the mine and seeing that it was free from an accumulation of gas.

Romani v. Schoal Creek Coal Co., 191 Ill. App. 521, p. 528.

See *Brumworth v. Kerens-Donnewald Coal Co.*, 260 Ill. 202, p. 218.

56. SHOT FIRERS—APPLICATION OF STATUTE.

NOTE.—See shot firers' act, p. 376.

The shot-firers' act of 1905 modifies the general act of 1899 relating to mines and miners by prohibiting the work of shot firing by miners in mines where more than 2 pounds of powder is used for a single blast, and in mines where gas is generated in dangerous quantities; but it does not purport to amend any act, and is, in fact, a complete and independent act of the legislature, requiring the employment of shot firers under certain conditions and fixing penalties for any willful neglect, refusal, or failure to do any of the things required by it.

Hollingsworth v. Chicago & Carterville Coal Co., 243 Ill. 98, p. 104.

See *Houglan v. Avery Coal Mining Co.*, 246 Ill. 609;

Kulvie v. Bunsen Coal Co., 253 Ill. 386.

At the time of the enactment of the statute of 1879 and of the statute of 1899, the shot firers were not in contemplation and the statute of 1905 providing for shot firers does not bring them within the provision and the protection of these acts.

Southern Coal & Min. Co. v. Hopp, 133 Ill. App. 239, p. 242.

The provisions of sections 16 and 20 of the act of 1899, with reference to shot firers apply only where the miners did their own firing and they have no application to shot firers employed and installed under the act of 1905.

Illinois Collieries Co. v. Davis, 137 Ill. App. 15, p. 19.

The shot-firers' act of 1905 is not an amendment to this general act but is independent legislation and the penalties imposed by section 33 of this act can not be extended to violations of the shot-firers' act.

Hollingsworth v. Chicago & Carterville Coal Co., 243 Ill. 98, p. 104.

The act of 1899 prohibiting the work of shot firing by miners, under certain circumstances, is modified by the shot-firers' act of 1905 and the amendatory act of 1907. The original act of 1905 is a complete and independent act requiring the employment of shot firers under certain conditions and fixing penalties for any willful neglect, refusal, or failure to do any of the things required.

Hollingsworth v. Chicago & Carterville Coal Co., 243 Ill. 98, p. 104.

See *Houghland v. Avery Coal & Min. Co.*, 246 Ill. 609;

Kulvie v. Bunsen Coal Co., 253 Ill. 386.

The provision of the act of 1899 requiring the instruction of miners as to the manner of placing and discharging blasting shots does not apply to shot-firers under the Shot-Firers' Act of 1907.

Kulvie v. Bunsen Coal Co., 253 Ill. 386, p. 387.

The failure of a mine operator to deliver props, caps, and timbers to miners on demand as required by this act can not be taken advantage of and does not constitute a cause of action under the statute in favor of a shot-firer, who was injured by reason of the operator's failure to deliver the props to the miners.

Southern Coal & Min. Co. v. Hopp, 133 Ill. App. 239, p. 243.

57. COMPLIANCE WITH STATUTE—LIABILITY FOR FAILURE.

A mine operator is not authorized to substitute precautionary measures in lieu of those required by the statute.

Eldorado Coal Co. v. Swan, 227 Ill. 586;

Hollingshead v. Wabash Coal Co., 142 Ill. App. 641, p. 645.

The fact that a shot-firer fired shots in an unskillful manner and by a method forbidden by the statute will not operate to defeat an action for damages for injuries where the explosion of gas producing the injuries could not have reached or extended to the miner if the operator had not failed in performing the statutory duty of keeping the roadway sprinkled or clean, and that the explosion reached the miner and produced the injuries was because it was aggravated and made defective by the fact that the air in the roadway was charged with dust.

Davis v. Illinois Collieries Co., 232 Ill., 284, p. 290.

See *Brunnworth v. Kerens-Donnewald Coal Co.*, 260 Ill. 202, p. 24.

A mine operator is guilty of a wilful violation of this section of the statute where he fails to adopt and post rules to govern shot-firing by miners as required by this section. The fact that a miner can not read the English language does not excuse a mine operator from posting the rules or relieve him from liability for failing to do so.

Franci v. Tazewell Coal Co., 157 Ill. App. 477, p. 483.

Where a mine manager had employed a miner to work at the top of a shaft during the night and one of his duties was to deliver a box of tools in the mine, to do which it was necessary to be at the top of the shaft and where the mine operator knew the duties of such person would require his presence at the top landing and at the cage during the night and with such knowledge the mine operator failed to furnish a light as the law requires, such failure is a conscious violation of the statute.

Grimm v. Donk Bros. Coal & Coke Co., 161 Ill. 101, p. 104.

58. WILLFUL VIOLATION OF STATUTE—WHAT CONSTITUTES.

The word "wilful" used in this statute means the intentional doing of the prohibited act or the conscious omission to do the prescribed act, there being present no impelling or restraining force or condition sufficient to overpower the will of the operator upon whom the duty is imposed.

Taylor Coal Co. v. Dawes, 122 Ill. App. 389, p. 395.

See Donk Bros. Coal & Coke Co. v. Peton, 192 Ill. 41;

Wilmington & Springfield Coal Co. v. Sloan, 127 Ill. App. 218, p. 220;

Moore v. Centralia Coal Co., 140 Ill. App. 291, p. 297.

A willful violation by a mine operator of a provision of the statute means a conscious failure to observe it.

Kellyville Coal Co. v. Strine, 217 Ill. 516;

Cook v. Big Muddy-Carterville Min. Co., 249 Ill. 41, p. 51;

Layher v. Chicago-Sandoval Coal Co., 179 Ill. App. 476, p. 481;

Salerno v. Missouri & Illinois Coal Co., 188 Ill. App. 343, p. 344.

Wendzinski v. Madison Coal Co., ——— Ill. ———, 118 N. E. 435.

A willful violation of the statute is one knowingly and deliberately committed.

Catlett v. Young, 143 Ill. 74;

Donk Bros. Coal, etc., Co. v. Stroff, 100 Ill. App. 576, p. 581;

Brookside Coal Min. Co. v. Dolph, 101 Ill. App. 169, p. 173.

An act consciously omitted is willfully omitted in the meaning of the word "wilful" as used in this statute.

Kellyville Coal Co. v. Strine, 117 Ill. App. 115, p. 121;

Fulton v. Wilmington Star Min. Co., 133 Federal 193, p. 196.

A willful violation of the statute is a conscious violation.

Hamilton v. Spring Valley Coal Co., 149 Ill. App. 10, p. 20.

See Eldorado Coal Co. v. Swan, 227 Ill. 586, p. 591.

A conscious omission or failure to comply with the statute renders the operator of a mine liable for ensuing injuries.

Riverton Coal Co. v. Shepherd, 111 Ill. App. 294, p. 300;

Carterville Coal Co. v. Abbott, 181 Ill. 495;

Odin Coal Co. v. Denman, 185 Ill. 415;

Donk Bros. Coal & Coke Co. v. Peton, 192 Ill. 41;

Donk Bros. Coal & Coke Co. v. Stroff, 200 Ill. 483.

The word "wilful" as used in this statute is synonymous with "knowingly" and the two words are equivalent.

Peebles v. O'Gara, 239 Ill. 370, p. 374;

Mengelkamp v. Consolidated Coal Co., 173 Ill. App. 370 p. 376.

"Wilful" is not used in the statute in the sense of malicious or with evil intent, but an act consciously or knowingly performed or omitted contrary to the statute is a willful violation of the statute.

Marquette Third Vein Coal Co. v. Dielie, 110 Ill. App. 684 p. 688.

The word "willful" used in the statute is not used in the sense that implies a wrongful intent, but a conscious failure to prevent or meet a duty put upon a mine operator by the statute would be a willful violation of the act and the neglect of that duty would be willful negligence.

Springfield Coal Min. Co. v. Gedutis, 127 Ill. App. 327, p. 329.

See Marquette Third Vein Coal Co. v. Dielle, 208 Ill. 116.

Chicago-Coulterville Coal Co. v. Fidelity etc. Co., 130 Fed. 957.

A conscious act or neglect is willful although there is no evil intent, but willfulness implies something more than a mere failure to exercise ordinary care. There is a clear distinction between a negligent omission and a willful failure to act, and willfulness and negligence have always been recognized as the opposites of each other.

Cook v. Big Muddy-Carterville Min. Co., 249 Ill. 41 p. 51.

See Layher v. Chicago-Sandoval Coal Co., 179 Ill. App. 476, p. 481;

Salerno v. Missouri & Illinois Coal Co., 188 Ill. App. 343, p. 344.

Section 33 gives a right of action for any injury occasioned by a willful failure to comply with any of the provisions of this act.

Karkowski v. La Salle County Carbon Coal Co., 248 Ill. 195, p. 197.

Under the established construction given to the word "willful" in the statute the questions of the existence or nonexistence of good faith or the presence or absence of an indication to comply with the statute on the part of a mine operator are not involved.

Aetitus v. Spring Valley Coal Co., 246 Ill. 241;

Vaughn v. O'Gara Coal Co., 173 Ill. App. 268, p. 275.

To knowingly violate this statute, from which an injury results, is in law, if not in morals, the precise equivalent of a willful injury.

Jupiter Coal Mining Co. v. Mercer, 84 Ill. App. 96, p. 102.

Where an owner or operator of a mine so constructs or equips it that he knowingly operates it without conforming to the provisions of the statute, he willfully disregards its provisions and willfully disregards the safety of the miners employed therein.

Fulton v. Wilmington Star Min. Co., 133 Federal 193, p. 196.

This statute gives a right of action for damages to a miner injured where the injury is occasioned by the willful failure to comply with the statute.

Brookside Coal Min. Co. v. Dolph, 101 Ill. App. 169, p. 173.

The right of recovery for a failure to make an examination of a mine as required by the statute must be based upon a willful failure or a willful violation of the statute.

Missouri & Illinois Coal Co. v. Schwalb, 74 Ill. App. 567, p. 573.

See Missouri & Illinois Coal Co. v. Schwalb, 77 Ill. App. 593.

To entitle an injured miner to recover for an alleged willful violation of the statute there must be on the part of a mine operator a conscious violation; but this may arise not only from actual knowledge of the dangerous conditions, but also from a knowledge of the facts from which the mine operator ought to know of the dangerous condition.

Sopley et v. O'Gara Coal Co., 161 Ill. App. 60, p. 64.

See Aetitus v. Spring Valley Coal Co., 246 Ill. 32.

The policy of the law forbids that a mine operator may disregard the requirements of the statute and thereafter be excused from the consequences of violation merely because such consequence was not intended.

Moore v. Centralla Coal Co., 140 Ill. App. 291, p. 297.

A mine owner is liable in damages for injuries sustained by a miner on the ground of willful violation of section 10 of the statute, although the mine was in the hands of a receiver and was being operated by him, where the evidence showed that the receiver had consciously failed to observe the provisions of the statute.

Litchfield Min. & Power Co. v. Beanblossom, 138 Ill. App. 122, p. 126.

Section 23 of the revised mining act of 1911 provides that the miner shall examine his working place; but there is nothing in the statute that relieves the mine operator from the duty enjoined upon him by section 29 and that will relieve him of liability for damages occasioned by the willful violation of the act or willful failure to comply with its provisions.

Davis v. Missouri & Illinois Coal Co., 186 Ill. App. 478, p. 485.

An instruction which correctly defines what is meant by a willful disregard of the mining act is not erroneous, but it might have been refused because of containing a general statement of the law without any reference or application to the case.

Carney v. Marquette Third Vein Coal Co., 175 Ill. App. 139, p. 143.

In an action for damages for injuries sustained on the alleged ground that the mine operator was guilty of a violation of the statute an instruction is proper which advises the jury that where an owner, operator, or manager so operates his mine that he knowingly operates it without conforming to the provisions of the mining act, he wilfully disregards the safety of the miners employed therein, in the sense that the word willful is used in the statute.

Donk Bros. Coal, &c., Co. v. Stroff, 200 Ill. 483, p. 489;

Donk Bros. Coal, &c., Co. v. Stroff, 190 Ill. App. 576, affirmed.

The revision of 1911 took away all rights of miners under the former statute to charge wilful negligence as to any other matters than those specifically mentioned. The act of 1911 casts no duty upon mine examiners either to mark or report the conditions at the face of the coal.

Mygatt v. Southern Coal & Min. Co., 180 Ill. App. 150, p. 160.

See *Gliebas v. Spring Valley Coal Co.*, 159 Ill. App. 88.

This statute is more restricted than that of the Indiana statute upon the subject of giving a right of action. The language there is "willful violation" or "wilful failure" to comply with the statutory requirements.

Princeton Coal Min. Co. v. Lawrence, 176 Ind. 469, p. 479.

The prohibition against employing in a mine a boy of 14 is positive, and the statute requires a certain course by which the age should be ascertained. The employment of a boy under 14 without the mine operator availing himself of the statutory means of learning his age is a willful violation of the statute.

Marquette Third Vein Coal Co. v. Dielie, 110 Ill. App. 684, p. 688;

Struthers v. People, 116 Ill. App. 481.

59. WILFUL VIOLATION—GOOD FAITH—EXCUSE.

The owner or operator of a mine can not excuse himself from liability growing out of a willful or a conscious violation of the mines and mining act, in failing to properly examine the mine and mark dangerous places thereon which are known to him, on the ground that the examiner or manager in good faith thought the place was not dangerous. If such a rule obtained, the right of an injured miner to recover would rest upon the opinion of the owner or operator or his vice principal, the examiner or manager, as to whether the

mine was safe or in a dangerous condition. It is the duty of the owner or operator of a mine to have the mine examined and if in a dangerous condition to have the dangerous place designated by the statutory marks, and if the operator fails in either particular, with knowledge of the dangerous condition, he is liable to an employee in the mine who is injured as a result of the wilful failure to obey the mandate of the statute. The liability does not rest upon the ground that in good faith or bad faith he thought there was no danger in the mine, but upon the ground that, knowing the facts which made the mine dangerous, he failed to have the statutory marks properly placed in the mine.

Aetitus v. Spring Valley Coal Co., 246 Ill. 32, p. 37;

Noonan v. Saline County Coal Co., 173 Ill. App. 541, p. 546.

See *Wilkerson v. Willis Coal & Min. Co.*, 158 Ill. App. 620, p. 626;

Vaughn v. O'Gara Coal Co., 173 Ill. App. 268, p. 271.

Mere neglect to discover a dangerous condition creates no statutory liability, but it must be a wilful failure to observe the statute, and this means a conscious failure. Where a mine is in a dangerous condition and the owner or operator has failed with knowledge of such condition to comply with the statute he may be held liable for resulting injuries and can not excuse himself on the ground that he had the mine examined and in good faith thought it was not dangerous.

Aetitus v. Spring Valley Coal Co., 246 Ill. 232;

Jacobs v. Madison Coal Corp., 165 Ill. App. 444, p. 446;

Piazzi v. Kerens-Donnewald Coal Co., 179 Ill. App. 540, p. 544.

See *Smith v. Illinois Collieries Co.*, 155 Ill. App. 148.

The fact that the method of firing a shot adopted by a miner had a tendency to cause a greater accumulation of gas and smoke at the mouth of his entry does not excuse a mine operator from the performance of his statutory duty with reference to sprinkling or cleaning the roadway or absolve him from liability for an injury resulting from an explosion aggravated by the presence of dust in the mine.

Maplewood Coal Co. v. Graham, 134 Ill. App. 277, p. 279.

66. WILLFUL FAILURE OF MINE MANAGER TO OBEY STATUTE—LIABILITY OF OPERATOR.

The willful failure of a mine manager or examiner to observe the provisions of the statute is a willful violation by the operator, though the operator has no accurate knowledge of the delinquency of the manager or examiner. The fact that the operator employed an examiner who had the statutory certificate in no wise relieves him from the duty imposed by the statute.

Davis v. Illinois Collieries Co., 232 Ill. 284, p. 289.

A mine manager, mine examiner, or hoisting engineer is the servant of the mine operator, and it is the duty of the operator to see that such servant performs the requisite duty; and any such mine manager, mine examiner, or hoisting engineer with respect to the performance of the statutory duty is a servant of the operator of the grade of vice principal, and the mine operator is liable for any willful failure or for any willful violation of the provisions of the statute.

Donk Bros. Coal & Coke Co. v. Lucas, 127 Ill. App. 61, p. 64.

See *Saugamon Coal Co. v. Wiggerhaus*, 122 Ill. 279;

Mt. Olive & Staunton Coal Co. v. Rademacher, 190 Ill. 538;

Donk Bros. Coal & Coke Co. v. Stroff, 200 Ill. 483;

Odin Coal Co. v. Tadlock, 216 Ill. 624;

Kellyville Coal Co. v. Strine, 217 Ill. 516;

Taylor Coal Co. v. Dawes, 220 Ill. 145;

O'Fallon Coal Co. v. Laquet, 89 Ill. App. 13;

Himrod Coal Co. v. Schrooth, 91 Ill. App. 234;

Mt. Olive & Staunton Coal Co. v. Herbeck, 92 Ill. App. 441;
 Kellyville Coal Co. v. Zahnka, 94 Ill. App. 74;
 Himrod Coal Co. v. Adack, 94 Ill. App. 1;
 Donk Bros. Coal & Coke Co. v. Stroff, 100 Ill. App. 576;
 Wilmington & Springfield Coal Co. v. Sloan, 127 Ill. App. 218, p. 221;
 Durkin v. Kingston Coal Co., 171 Pa. 193;
 Williams v. Thacker Coal Co., 44 West Va. 599.

The mere fact that an examiner is licensed by the State and that the coal operators are compelled to employ only such examiners as are licensed does not relieve a mine operator from responsibility for his acts of omission, as this would largely defeat the purpose and object of the statute.

Kellyville Coal Co. v. Strine, 117 Ill. App. 115, p. 122.

Certain duties of this act are imposed upon the owner or operator of a coal mine, and for willful omission to perform these duties he may be liable in an action for damages. The duties required of a mine manager, boss, superintendent, or other superior servant in charge of the work are held to be the duties of the principal or owner or operator. The duty of the mine manager to supply props is plain, and, though a failure to perform this duty may be due to the neglect or willful disobedience of an employee to whom was delegated the duty, yet the mine operator is nevertheless liable.

Southern Coal & Min. Co. v. Hopp, 133 Ill. App. 239, p. 243.

If a mine examiner by a proper examination would have discovered the dangerous condition of a roof, the fall of which caused the injury sued for, his failure to do so constitutes a wilful violation of the statute by the mine operator in that regard.

Gallez v. Kelly Coal Co., 151 Ill. App. 178, p. 181;
 Mertens v. Southern Coal Co., 235 Ill. 540;
 Peebles v. O'Gara Coal Co., 239 Ill. 370.

It is not necessary that a mine examiner have an evil intent in order to make his failure to comply with the statute a willful violation, but a willful violation of the statute, within the meaning of the law, signifies a conscious violation of the statute.

Marquette Third Vein Coal Co. v. Dielie, 208 Ill. 116;
 Mertens v. Southern Coal & Min. Co., 235 Ill. 540, p. 547.
 See Marquette Third Vein Coal Co. v. Dielie, 110 Ill. App. 684, p. 686.

A mine manager with knowledge for many days that a roadway needed cleaning or sprinkling and failed to have the same cleaned or sprinkled was guilty of a conscious omission to perform a duty and this was a willful failure to obey the statute.

Davis v. Illinois Collieries Co., 232 Ill. 284, 290;
 Donk Bros. Coal Co. v. Peton, 192 Ill. 41.
 See Hougland v. Avery Coal Min. Co., 246 Ill. 609, p. 616;
 Mengelkamp v. Consolidated Coal Co., 259 Ill. 305, p. 309;
 Carterville Coal Co. v. Abbott, 181 Ill. 495.

61. VIOLATION OF STATUTE—PROXIMATE CAUSE OF INJURY.

The proximate cause of an injury is in law the probable cause of such injury.

Loftus v. Illinois Midland Coal Co., 181 Ill. App. 197, p. 200.
 See Jenkins v. LaSalle County Carbon Coal Co., 182 Ill. App. 36, p. 38;
 Loftus v. Illinois Midland Coal Co., 193 Ill. App. 454, p. 456.

The proximate cause of an injury is the act or omission which immediately caused, and without which, the injury would not have happened notwithstanding other conditions or omissions concurring therewith.

Carterville Coal Co. v. Cooke, 129 Ill. 152;
 Miller v. Kelly Coal Co., 125 Ill. App. 452, p. 454.

The proximate cause of an injury is not necessarily the beginning cause but it must be the efficient cause, one which a court could say as a matter of law that the injury would not have occurred without it.

Salerno v. Missouri & Illinois Coal Co., 188 Ill. App. 343, p. 344.

If a willful violation of the statute on the part of a mine operator occasioned the injury complained of, then it is wholly immaterial whether the consequences of such violation, as it did in fact occur, could have been foreseen or not, nor whether the injury was directly or indirectly caused by such violation. It is sufficient that the alleged violation was willful and that it did in fact occasion the injury.

Kellyville Coal Co. v. Strine, 117 Ill. App. 115, p. 124.

See *Willis Coal & Min. Co. v. Grizzell*, 100 Ill. App. 480.

Before an injured miner can recover under this section he must show that the proximate cause of the injury was the willful violation of the provisions of the statute by the mine operator.

Dobbles v. Electric Coal Co., 158 Ill. App. 357, p. 358;

Loftus v. Illinois Midland Coal Co., 181 Ill. App. 197, p. 200.

See *Stanhaus v. Paradise Coal & Coke Co.*, 169 Ill. App. 75, p. 81.

A wilful violation of the statute must be shown to have been the proximate cause of the injury complained of; and on failure to introduce evidence proving or tending to prove this material and necessary element of recovery, the cause is properly taken from the jury.

Odorizzi v. Southern Coal Mining Co., 151 Ill. App. 393, p. 395.

See *Odin Coal Co. v. Denman*, 185 Ill. 413;

Schlapp v. McLean County Coal Co., 235 Ill. 630;

Pettinger & Davis Min. Co. v. Gettleman, 126 Ill. App. 549;

Missouri & Illinois Coal Co. v. Schwalb, 74 Ill. App. 567.

In order for a wilful violation of the statute to give a cause of action to an injured miner or to the next of kin in case of his death, the violation of the statute must have been the proximate cause of the injury.

Paletta v. Illinois Zinc Co., 153 Ill. App. 506, p. 509;

Rouch v. Willis Coal Min. Co., 183 Ill. App. 577, p. 578.

The fair preponderance of the evidence must show that the violation of the statute alleged in a declaration was the proximate cause of the complainant's injury and that the dangerous place complained of was the thing that caused the injury.

Williams v. Orion Coal Co., 161 Ill. App. 65, p. 67;

King v. De Camp Coal Min. Co., 161 Ill. App. 203, p. 204;

Kilduff v. Consolidated Coal Co., 164 Ill. App. 194, p. 197;

Stevenson v. Avery Coal & Min. Co., 143 Ill. App. 397, p. 399.

See *Loftus v. Illinois Midland Coal Co.*, 181 Ill. App. 197, p. 200;

Carter v. Sangamon Coal Co., 162 Ill. App. 8;

Sheppard v. Marquette Third Vein Coal Min. Co., 164 Ill. App. 495, p. 504.

The statute provides that for any injury occasioned by the wilful violation of the statute a right of action shall accrue for any direct damages sustained, and the word "direct" does not pertain to the cause of the injury but to the effect of it.

Willis Coal & Min. Co. v. Grizzell, 100 Ill. App. 480, p. 483.

See *Coal Run Coal Co. v. Jones*, 127 Ill. 379;

Illinois Fuel Co. v. Parsons, 33 Ill. App. 182;

Missouri & Illinois Coal Co. v. Schwalb, 77 Ill. App. 593.

The violation of a statute intended for the protection of persons is *prima facie* evidence of negligence and if the violation is likewise the proximate cause of the injury a person of the class intended to be protected is entitled to an action.

Jupiter Coal Min. Co. v. Mercer, 84 Ill. App. 96, p. 102.

A miner in an action for damages for injuries caused by the alleged violation of the statute by the mine operator must prove by a fair preponderance of the evidence that such failure on the part of the mine operator was the proximate cause of the injury complained of.

Wyzard v. Vivien Collieries Co., 184 Ill. App. 199.

In an action for damages for the death of a miner caused by an explosion of gas in a mine it is not improper for a court to instruct a jury that if they find from the evidence that the wilful violation of the operator proximately contributed to the accident and injury as alleged in the plaintiff's complaint then the plaintiff is entitled to recovery. If the gas exploded and caused the miner's death, the wilful violation of the operator to comply with the statute proximately has contributed to and also caused the death of the miner.

Athens Mining Co. v. Carnduff, 221 Ill. 354, p. 360.

It is the purpose of the statute as evidenced by sections 16 and 19 that a current of fresh air should be maintained throughout the mine sufficient for the health and safety of all men and animals employed therein; but there can be no recovery in an action by a miner for injuries on the ground of a wilful failure to comply with the statute unless the alleged wilful failure or violation was the proximate cause of the injury complained of.

Rosan v. Big Muddy Coal & Iron Co., 128 Ill. App. 128, p. 132.

See *Carterville-Herrin Coal Co. v. Moake*, 128 Ill. App., p. 133;

Pettinger & Davis Min. Co. v. Gettleman, 126 Ill. App. 549;

Halberg v. Citizens Coal Min. Co., 149 Ill. App. 412, p. 415.

The purpose of the statute in requiring cross-cuts is to secure and maintain throughout the mine currents of fresh air sufficient for the health and safety of the men and animals employed therein so that all parts of the mine shall be reasonably free from standing powder, smoke, and deleterious air. But to render a mine operator liable for damages for injuries to a miner for a failure to provide cross-cuts there must be a causal connection between the injury complained of and the alleged wilful failure in duty.

Carterville & Herrin Coal Co. v. Moake, 128 Ill. App. 133, p. 135.

See *Rosan v. Big Muddy Coal & Co.*, 128 Ill. 128, p. 132;

Pettinger & Davis Min. Co. v. Gettleman, 126 Ill. App. 549;

Odorizzi v. Southern Coal Co., 151 Ill. App. 393, p. 395.

The purpose of sections 16 and 19 was to provide a proper sanitary condition of a mine by a system of ventilation whereby there might be forced throughout the mine currents of fresh air sufficient for the health and safety of men and animals employed therein, and the withdrawal therefrom of noxious gases; but the requirements of these sections are not directed solely to the maintenance of proper sanitary conditions and a mine operator may be liable for an injury to a miner proximately caused by wilful violation of the provisions of these sections, although such injury is not directly attributable to the sanitary condition of the mine. If through the wilful failure of a mine operator to comply with the provisions of these sections noxious gases, deleterious air and standing powder smoke are present in the mine in such quantities, and are of such character as to obscure a miner's vision and he suffers an injury by reason of the obscuration of his vision caused by the presence of such gases, air and smoke, the mine operator should not be permitted to escape liability

for such injury upon the ground that the injury was not proximately caused by conditions affecting the sanitation of the mine.

Layman v. Penwell Min. Co., 142 Ill. App. 580, p. 585.

In an action for damages for injuries caused by an alleged wilful violation of the statute if the jury believe from the evidence that the miner would not have been injured but for the failure of the mine operator to make the examination and his failure to indicate the danger by a mark, then they are justified in finding that the miner's injuries were occasioned by the wilful negligence of the operator within the meaning of the statute.

Kellyville Coal Co. v. Strine, 217 Ill. 516;

Mertens v. Southern Coal Co., 235 Ill. 540;

Brown v. Kelly Coal Co., 162 Ill. App. 65, p. 68.

12. VIOLATION OF STATUTE—FAILURE TO SHOW PROXIMATE CAUSE—INSTANCES.

There can be no recovery for the death of a miner caused by an alleged violation of the statute on the part of the mine operator in that the operator required the deceased, who was the hoisting engineer, to be away from the hoisting engine and at the dynamo engine while men were underground, where his absence from the hoisting engine had no causal connection whatever with and was not the proximate cause of his death.

Sheppard v. Marquette Third Vein Coal Min. Co., 164 Ill. App. 495, p. 504.

There can be no recovery for the death of a shot firer where the evidence is not sufficient to show that his death was caused proximately by the failure of the mine operator to properly ventilate a mine.

Snodgrass v. Chicago-Sandoval Coal Co., 183 Ill. App. 442, p. 446.

An action by a miner for damages for injuries caused by a fall of rock from the roof of a mine on the alleged ground that the mine operator had failed to properly ventilate the mine and by reason of such failure there was such an accumulation of powder smoke that the miner could not see and determine the dangerous condition of the roof, can not be sustained where the proof shows that the miner discovered the condition of the rock and the roof by sounding it with his pick and by reason thereof knew that it was dangerous, and he can not be heard to say that he was prevented from having such knowledge by reason of the obscuration of his vision by standing powder smoke. It follows, therefore, that the presence of standing powder smoke in the miner's room was not the proximate cause of his injury, and there was no casual connection between the injury and the presence of powder smoke in the miner's room.

Layman v. Penwell Min. Co., 142 Ill. App. 580, p. 586.

Proof that the space of two and one-half feet between the car and the rib was not a clear space, and that accumulations of dirt or gob had been permitted, whether wilful or otherwise on the part of the mine operator, would not justify a recovery of damages for injuries to a miner where there was no evidence tending to show that the accumulation of dirt or gob caused or contributed in any manner or to any degree to the accident.

Cook v. Big Muddy-Carterville Min. Co., 249 Ill. 41, p. 49;

Eton v. Marlon County Coal Co., 173 Ill. App. 444, p. 447;

Carterville Coal Co. v. Cooke, 129 Ill. 152;

Miller v. Kelly Coal Co., 125 Ill. App. 452, p. 454.

In an action by a miner against a mine operator for damages for a wilful violation of the statute in that the operator failed to have a cross-cut opening at every 60 feet in the gangway, there can be no recovery where the injuries

complained of were caused by an explosion of powder supposed to have been ignited by another workman either in squibbing the blasting barrel or in opening his powder keg with a pick, as there could be no casual connection between the violation of the statute and the injuries complained of.

Carterville-Herrin Coal Co. v. Moake, 128 Ill. App. 123, p. 134.

In an action by a driver for damages for injuries caused by being caught between his car and a rib in a haulage way while engaged in removing a sprag from the wheels of his car, on the ground of the alleged wilful violation of the statute on the part of the mine operator in that he failed to provide refuge places as required by the statute, there can be no recovery where the alleged violation of the statute was not the proximate cause of the injury, as the injury under the circumstances might have occurred as it did even though refuge places had been provided as required by the statute.

Schlapp v. McLean County Coal Co., 138 Ill. App. 1, p. 5.

A mine operator is not liable for the death of a trip driver on the ground of a wilful failure on the part of the operator to cause the dangerous place and conditions in a mine to be marked where the alleged dangerous conditions consisted of broken balance wheels of the engine used in the mine, worn friction blocks used to apply to the drums, and defective drums, all used in the operation of a wire rope several hundred feet in length used in hauling coal across the mine, and where the death of the trip driver occurred several hundred feet from such machinery, as these are parts of machinery and not the dangerous condition in a mine where the mine examiner must observe and mark.

Pate v. Gus Blair-Big Muddy Coal Co., 252 Ill. 198, p. 200;

Distinguishing Dunham v. Black Diamond Coal Co., 239 Ill. 457.

Spring Valley Coal Co. v. Greig, 226 Ill. 511.

See Felchner v. Consolidated Coal Co., 176 Ill. App. 411, p. 413.

A failure to make an examination of a mine required by the statute may be wilful; but if a subsequent examination was made in good faith before the alleged accident and the cause of the accident was not discovered, then a wilful failure to make the examination at an earlier hour when the cause would have been less likely to be discovered can not be a ground of recovery.

Missouri & Illinois Coal Co. v. Schwalb, 74 Ill. App. 567, p. 574.

See Missouri & Illinois Coal Co. v. Schwalb, 77 Ill. App. 593;

Schultz v. Donnewald Coal Co., 180 Ill. App. 693, p. 697.

VIOLATION OF STATUTE—CONCURRING OR CONTRIBUTORY CAUSE OF INJURY.

Where an injury is the result of a violation of the statute and the negligence of a third person, an inevitable accident, or some inanimate thing, the operator is liable.

Brunnworth v. Kerens-Donnewald Coal Co., 260 Ill. 202, p. 215.

See Cook v. Big Muddy-Carterville Min. Co., 249 Ill. 41;

Brunnworth v. Kerens-Donnewald Coal Co., 169 Ill. App. 68.

The alleged negligent act or omission on the part of the operator must be one of the essential causes producing the injury, but it need not be the sole cause, or the last or nearest cause; but if it concurs with another cause acting at the same time and in combination with it causing the injury, it is sufficient to render the operator liable.

Waschow v. Kelly Coal Co., 245 Ill. 516, p. 519.

In an action by a miner for damages for injuries caused by the alleged violation of the statute on the part of the mine operator it is not necessary to a recovery that the violation of the statute charged should be the sole proximate cause of the injury, but it is sufficient if it be a contributing proximate cause.

In such cases the question of proximate cause is always one of fact, and neither the presence nor the absence of proximate cause can ever appear as a matter of law in any case.

Illinois Collieries Co. v. Davis, 137 Ill. App. 15, p. 20.

A mine operator may be liable for an injury to a miner for failure to comply with the statute, though such failure was not the sole cause, or the last or nearest cause, but it is sufficient if it concurs with another cause acting the same time which in combination with it causes the injury complained of.

Waschow v. Kelly Coal Co., 245 Ill. 516, p. 520.

See *Miller v. Kelly Coal Coal Co.*, 239 Ill. 626;

Darling v. Wood, 168 Ill. App. 272, p. 275.

To entitle an injured miner to recover damages for the alleged violation of the statute it must be shown that such willful violation on the part of the mine owner was one of the essential causes of the injury complained of, and that without the same the injury would not have happened, and that the injury must follow as an unbroken sequence from and on account of such willful violation of the statute by the mine operator and the injury must have resulted from a combination of causes following in a natural and unbroken line from such willful violation.

Davis v. Big Muddy Coal & Iron Co., 173 Ill. App. 162, p. 169.

When an injury proceeds from two causes operating together the party putting in motion one of them is liable the same as though it was the sole cause. The negligent acts or willful omission or violation of the statute must be one of the essential causes producing the injury, but it need not be the sole cause or the last or nearest cause; but it is sufficient if it concurs with the other cause acting at the same time, which in combination with it causes the injury.

Waschow v. Kelly Coal Co., 245 Ill. 516, p. 519;

Darling v. Wood, 168 Ill. App. 272, p. 275;

Davis v. Big Muddy Coal & Iron Co., 173 Ill. App. 162, p. 167.

The dangerous condition which caused an injury complained of resulted from the haulage track being too close to the rib of coal on one side and in permitting gob to accumulate on the other so that a driver in alighting from his car was thrown or fell and was crushed between the rib and the car. Under such circumstances, it can not be claimed that the condition of the entry was not the proximate cause of the driver's injury. If the viciousness of the mule that the driver was required to use, combined with the dangerous situation and condition of the entry, caused the injury, then the mine operator must be held liable. When an injury proceeds from two causes operating together, the operator putting in motion one of them is liable the same as though he was the sole cause.

Waschow v. Kelly Coal Co., 245 Ill. 516, p. 519.

See *Brunnworth v. Kerens-Donnewald Coal Co.*, 260 Ill. 202, p. 214.

Miller v. Kelly Coal Co., 239 Ill. 626.

64. VIOLATION OF STATUTE—PROOF AND PRESUMPTIONS.

To maintain a charge of wilful violation of the statutory duty to furnish props and caps on request, it is not proper to give evidence of previous failures to furnish as many cap pieces as the miners thought were necessary or that miners complained to the mine examiner that they were not being supplied with pieces. Such evidence did not tend to prove either a demand by the miner either at the time of the accident or the failure of the mine operator to comply with the demand that was alleged to have caused the injury, but is

sometimes admissible to prove knowledge, but not to prove misconduct as a basis of a cause of action.

Hackart v. Decatur Coal Co., 243 Ill. 49, p. 52.

See Taylor Coal Co. v. Dawes, 220 Ill. 145.

To establish a wilful violation of the statute involves proof of a conscious violation and any fact that would establish knowledge on the part of an engineer that the cage was being lowered into the mine at an unlawful rate of speed is admissible in evidence, although it involved proof of the conduct of the engineer at times other than the time the miner was injured.

Taylor Coal Co. v. Dawes, 220 Ill. 145, p. 148;

Taylor Coal Co. v. Dawes, 122 Ill. App. 389, p. 396, affirmed;

Robertson v. Donk Bros. Coal & Coke Co., 238 Ill. 344, p. 348;

Robertson v. Donk Bros. Coal & Coke Co., 143 Ill. App. 391, p. 396, affirmed.

In an action by a miner for damages for injuries occasioned by an alleged violation of the statute on the part of the mine operator it is proper to show the condition of a road way, wall and roof for a distance of 300 feet or more from the principal doorway and that the alleged condition had existed for a period of six months before the accident occurred. The fact that such conditions existed for such a distance back and that they had existed for several months before the injury tends to show that the conduct of the mine operator in maintaining such conditions was wilful.

Emerling v. Spring Valley Coal Co., 149 Ill. App. 97, p. 100.

See Taylor Coal Co. v. Dawes, 220 Ill. 145;

Robertson v. Donk Bros. Coal & Coke Co., 238 Ill. 344.

In an action by a miner for damages for injuries caused by an alleged violation of the statute, the complainant, in order to succeed, must prove the alleged violation by a preponderance of the evidence.

Gliebas v. Spring Valley Coal Co., 159 Ill. App. 88, p. 89.

In an action under this statute for the death of a miner caused by an alleged wilful violation of the statute, where no negligence is averred in the declaration, it is error for the court to instruct the jury that if they believe from a preponderance of the evidence "that if the mine operator was knowingly negligent," he would be liable, where the declaration charged a wilful violation of the statute.

Clark v. O'Gara Coal Co., 140 Ill. App. 207, p. 211.

See Moore v. Centralia Coal Co., 140 Ill. App. 291.

The fact that a cage was descending into a mine at a rate of speed prohibited by this act at the time a miner was injured might afford a presumption that the engineer controlling the engine that lowered and raised the cage had knowledge of the rate of speed at which the cage was descending into the mine; but if that were the only time in the history of the mine when the cage had been allowed by the engineer to descend at a prohibited speed, the presumption that its unlawful rate of descent was known to the engineer and that such excessive speed was not accidental would be weakened. But if the engineer had repeatedly prior to the time of the injury violated the statute by lowering the cage at a prohibited rate, the presumption that he knowingly and therefore wilfully violated the statute would be greatly strengthened.

Taylor Coal Co. v. Dawes, 220 Ill. 145, p. 148;

Taylor Coal Co. v. Dawes, 122 Ill. App. 389, p. 396, affirmed;

Robertson v. Donk Bros. Coal & Coke Co., 238 Ill. 344, p. 348;

Robertson v. Donk Bros. Coal & Coke Co., 143 Ill. App. 391, p. 396, affirmed.

The statute of Illinois requires a mine operator to have the mine inspected at the close of each day's work, and a mine operator can not be held liable for the

death of a miner that occurred on the morning following such an inspection where there is nothing to show what changes took place between the time of inspection and the time of the accident, except that a shot had been fired for the purpose of bringing down coal.

Madison Coal Corporation v. Stullken, 228 Federal 307, p. 308.

65. VIOLATION OF STATUTE AND NEGLIGENCE—DISTINCTION.

Negligence is no part of, and is not involved in an action for the wilful violation of a statute.

Karkowski v. La Salle County Carbon Coal Co., 154 Ill. App. 399, p. 404.

An action given by the statute is for a wilful violation of its provisions and requires more than mere negligence. The General Assembly in obedience to the Constitution performed the duty of specifying certain things which must be done to secure the safety in mines and fix a liability for a wilful failure to do them; but it has not declared the liability of a mine operator for mere negligence unmingled with any intention, through proof or properly inferred from the facts, not to do the thing required. In an action for damages for injuries caused by the alleged violation of the statute it is error for a court to give an instruction which removes all distinction between negligence and wilfulness as this is contrary to the plain language of the statute.

Cook v. Big Muddy-Carterville Min. Co., 249 Ill. 41.

There is a wide difference in the evidence required to sustain an action for wilful injury at common law and that which is sufficient to prove liability for wilful violation of a statute. In the one case an evil intent must be shown and it must appear that the injury was purposely inflicted, or what the law holds equivalent of an evil intent, that the act of a mine operator was in such reckless disregard of certain injurious consequences that wilfulness will be imputed. On the other hand when the action is founded upon the wilful violation of the statute it is only necessary to prove that the defendant consciously or knowingly did or omitted what the law requires.

Moore v. Centralia Coal Co., 140 Ill. App. 291, p. 297.

Before a recovery can be had for a wilful violation of the statute there must have been a failure to perform some act required by the statutes and such act must have been knowingly done or the requirements knowingly omitted or the knowledge of the doing of such act or its omission must be chargeable to the mine owner by reason of a failure to use ordinary diligence and caution in the operation of his mine; but the statute does not apply to an ordinary act of negligence under the common law.

Dobbles v. Electric Coal Co., 158 Ill. App. 357, p. 559.

See *Catlett v. Young*, 143 Ill. 74;

Peebles v. O'Gara Coal Co., 239 Ill. 370.

Circumstances and conditions may exist in a mine that would render the mine operator liable in damages in an action by a person injured on the ground of negligence, but would not be sufficient to render the mine operator liable in an action based on a wilful violation of the statute.

Kean v. Jones Bros. Coal & Min. Co., 147 Ill. App. 319, p. 323.

An amendment changing an action for damages for the death of a miner from one for a common-law liability to one for a violation of this statute presents a different cause of action and a different statute of limitation applies.

McCray v. Moweaqua Coal Min. etc. Co., 149 Ill. App. 565, p. 568.

See *Bradley v. Chicago-Virden Coal Co.*, 231 Ill. 622;

Houglund v. Avery Coal Min. Co., 152 Ill. App. 573.

The general assembly, by virtue of the constitution, has performed the duty of specifying certain things which must be done to secure safety in mines and has fixed a liability for a willful failure to do them; but it has not created or declared a liability of a mine operator for mere negligence unmixed with any intention, through proof or proper inferences from the facts, not to do the things required.

Cook v. Big Muddy-Carterville Min. Co., 249 Ill. 41, p. 51.

In an action by a miner for damages for injuries caused by the alleged willful violation of the statute or a willful failure to comply with the statute, it is error for the court to submit the case to the jury on an instruction as to negligence, as in such a case there can be no recovery unless there was a willful or conscious failure to comply with the statute.

Swinosynski v. Kelly Coal Co., 146 Ill. App. 120, p. 122.

In an action under this statute for damages for the death of a miner it is necessary to prove that the proximate cause of the death was the willful failure of the mine operator to comply with some of the provisions of the statute, and the absence of contributory negligence and the assumption of risk are unavailing. In an action for common-law negligence it is necessary to prove that the deceased was in the exercise of due care and did not assume the risk as incident to his employment. The two causes of action are radically different.

McCray v. Moweaqua Coal Min. etc. Co., 149 Ill. App. 565, p. 568.

See *Bradley v. Chicago-Virden Coal Co.*, 231 Ill. 622.

Proof of mere negligence will not justify a recovery in an action under the mining act, but the proof must show that there was a willful failure upon the part of the mine operator to perform or omit to perform an act required by the statute.

Mengelkamp v. Consolidated Coal Co., 173 Ill. App. 370, p. 376.

The term willful negligence as applied in an instruction to a jury in an action for a violation of the statute is a misnomer, but it is not error where it appears that it was the intention of the instruction to refer to the willful violation of the statute charged in the declaration.

Layher v. Chicago-Sandoval Coal Co., 179 Ill. App. 476, p. 483.

66. NEGLIGENCE OF OPERATOR—STATUTORY AND COMMON-LAW LIABILITY.

The mining statute is intended to impose obligations upon mine owners for the protection of the miner from injuries which are incident to the operation of a mine. A mine owner is not liable by reason of the statutory provisions for any neglect of duty which falls within the ordinary rules of law regarding negligence which are not incident to the operation of his mine.

Dobbles v. Electric Coal Co., 158 Ill. App. 357, p. 358.

See *Girard Coal Co. v. Wiggins*, 52 Ill. App. 69.

An adult competent to contract as a miner and responsible for his own acts should not be permitted to compel a mine operator to respond to him in damages for an injury resulting from a negligent act that required his cooperation and in the performance of which he was equally guilty.

Seghetti v. Berry Coal Co., 186 Ill. App. 263, p. 267.

The violation of a statute imposing a duty is actionable negligence on the principle that the omission of duty otherwise imposed must be for the benefit of the person injured and there must be a causal relation between the act and the injury.

Seghetti v. Berry Coal Co., 186 Ill. App. 263, p. 266.

In an action under the statute by a miner for damages for injuries received by a driver by reason of the low haulage way or entry it is not sufficient to aver that the mine operator could have known of such dangerous condition by complying with the statute; and the mine operator can not be made liable in an action under the statute for negligence without regard to whether the operator had knowledge of the condition or had knowledge of facts from which he ought to have known the dangerous condition, and where the averment eliminates the wilful failure required to create the statutory liability.

Jacobs v. Madison Coal Corp., 165 Ill. App. 444, p. 446;

Mengelkamp v. Consolidated Coal Co., 173 Ill. App. 370, p. 380.

Negligence may be that arising at common law for failure to do or negligently performing things that a reasonably prudent man should do or omit, and it is also a failure to perform a duty commanded by statute, properly denominated negligence per se. There is no distinction made between statutory or common law negligence.

Davis v. Missouri & Illinois Coal Co., 186 Ill. App. 478, p. 486.

The term wilful negligence as applied in an instruction to a jury in an action for a violation of the statute is a misnomer; but it is not error where it appears plain that it was the intention of the instruction to refer to the wilful violation of the statute charged in the declaration.

Layher v. Chicago-Sandoval Coal Co., 179 Ill. App. 476, p. 483.

67. EMPLOYMENT OF BOYS—CONSTRUCTION AND PURPOSE OF ACT.

Section 22 of this act is to be construed with the act of 1903 known as the child labor act, and they are to be construed as framed on one system and having one object in view and that is the regulation of child labor in Illinois; and in construing these statutes contemporaneous, antecedent and subsequent statutes on the same subject-matter may be examined and considered.

Struthers v. People, 116 Ill. App. 481, p. 487.

Section 22 prohibiting the employment of children under the prohibited age, like other similar statutes, is intended to guard against the dangers from accidents to the children of the State and to protect the health and general well-being of the children. Such laws are sustainable under the police powers of the State and must be so construed as to accomplish the object sought to be obtained and to correct the evils sought to be removed. Holding the employer of a child in violation of the statute to a strict liability for any injury happening to the child when engaged in such prohibited employment will have a wholesome influence tending to check the evils against which the legislation was directed.

Marquette Third Vein Coal Co. v. Dielle, 110 Ill. App. 684, p. 690.

The statute absolutely forbids the employment of a child under the stipulated age. The reason is that immature children are liable not to understand the significance and importance of the regulations prescribed for a mine and the employees therein and may thoughtlessly disobey orders or expose themselves to peril. An operator who violates the statute cannot screen himself from liability because a child employed in violation of the statute has been injured by reason of the childish traits which give rise to the statute.

Marquette Third Vein Coal Co. v. Dielle, 110 Ill. App. 684, p. 689;

Struthers v. People, 116 Ill. App. 481.

Section 21 of the statute forbids the employment of a child under 14 years of age. A mine operator who employs a child in violation of the statute, places it

in his mine, and exposes it to danger must respond in damages for injuries received by the child on the ground that he willfully violated the prohibition of the statute in that he exposed an immature child to the dangers from which the statute aimed to protect it.

Marquette Third Vein Coal Co. v. Dielle, 110 Ill. App., 684, p. 690;
Struthers v. People, 116 Ill. App. 481.

A person who contrary to the statute employs a child at a prohibited employment is liable for resulting injuries, and neither contributory negligence nor disobedience of orders can be interposed as a defense to an action for damages.

Seghetti v. Berry Coal Co., 186 Ill. App. 263, p. 267.
See Purtell v. Philadelphia Coal Co., 256 Ill. 110.

This statute makes it unlawful for a mine owner to employ or permit a boy under 14 years of age to perform manual labor in and about a mine, and further provides that before any boy can be permitted to work he must produce to the mine manager or operator an affidavit from the proper person that he is 14 years of age. The object sought to be accomplished by this statute is to prevent the employment of boys of immature years in the coal mines of the State. In case the statute is violated and a boy under the prohibited age is injured while performing manual labor which he is employed or permitted to do in a mine, the statutory liability for damages has occurred, and the questions of willful violation of the statute and the proximate cause of the injury are questions of fact for the jury to determine in an action for damages.

Marquette Third Vein Coal Co. v. Dielle, 208 Ill. 116, p. 122.
See Chicago, Wilmington, etc., Coal Co. v. Moran, 210 Ill. 9.

Marquette Third Vein Coal Co. v. Dielle, 110 Ill. App. 684, p. 686.

68. ACTION BY INJURED MINER—PLEADING AND PROOF—RECOVERY.

A cause of action for damages for injuries to a miner, necessary to be alleged and proved under the Mines and Miners' Act, is a different cause of action from that which must be alleged and proved to recover on a common law liability.

Bradley v. Chicago-Virden Coal Co., 231 Ill. 622, p. 628;
Henderson v. Moweaqua Min. etc. Co., 145 Ill. App. 637, p. 642.

It is sufficient to sustain an action for a breach of a statutory duty to prove a violation and a resulting injury unless the statute is a general police regulation designed to protect the public at large.

Brunnworth v. Kerens-Donnewald Coal Co., 260 Ill. 202, p. 217;
Brunnworth v. Kerens-Donnewald Coal Co., 169 Ill. App. 68.

In an action by a miner for damages for injuries sustained by reason of the alleged willful failure of a mine operator to comply with the provisions of the statute an allegation to the effect that the complainant was in the exercise of due care for his own safety when he was injured, is not required and has no place in such a declaration.

Henderson v. Moweaqua Coal Min. etc. Co., 145 Ill. App. 637, p. 641;
Carterville Coal Co. v. Abbott, 181 Ill. 495.
Donk Bros. Coal & Coke Co. v. Stroff, 100 Ill. App. 576, p. 581.

An action to recover damages for personal injuries resulting from a willful violation of a provision of the mining statute is a civil suit for damages and is not a criminal or penal action to recover or enforce the penalty for its violation and it is sufficient to entitle a plaintiff to recover that he prove his case by preponderance of the evidence.

Guthrie v. Empire Coal Co., 150 Ill. App. 530, p. 537.

Section 33 makes the willful failure to observe the provisions of the statute a misdemeanor, but in a civil action for damages for injuries caused by a willful violation of the statute the plaintiff is not required to prove such violation by evidence which would convince beyond reasonable doubt.

Davis v. Illinois Collieries Co., 232 Ill. 284, p. 291.

A report and record are required to be made by the mine examiner and there is no reason why these are not admissible in evidence to establish the facts required to be reported by the mine inspector and kept in the office of the operator with reference to any accident resulting in injury to a miner.

Aetitus v. Spring Valley Coal Co., 246 Ill. 32, p. 37.

The report of a mine examiner is not incompetent as evidence in an action for damages by an injured miner for an alleged violation of the statute because it contains more than was required, as this would make it possible for an operator to obviate the effect of the report as evidence by inserting therein some necessary or improper matter.

Aetitus v. Spring Valley Coal Co., 150 Ill. App. 497, p. 502.

A clear distinction exists between the right of an injured miner to recover for injuries caused by a fall from the roof where the miner working under the direction of the mine manager is removing the danger or making the dangerous place safe, and where he was sent to clean up a fall by the direction of the mine manager and was not engaged in and had nothing to do with the making the dangerous place safe.

Noonan v. Saline County Coal Co., 173 Ill. App. 541, p. 546.

See *Kellyville Coal Co. v. Bruzas*, 223 Ill. 595.

A mine operator who permits a miner to enter the mine to work therein otherwise than under the direction of the mine manager, knowing of the dangerous condition of the mine and before such dangerous condition has been made safe, is guilty of a conscious violation of section 18 of the statute that renders him liable to an injured miner for a willful violation of the statute.

Olson v. Kelly Coal Co., 236 Ill. 502, p. 506.

See *Odin Coal Co. v. Denman*, 185 Ill. 413;

Marquette Coal Co. v. Diehl, 208 Ill. 116;

Kellyville Coal Co. v. Strine, 217 Ill. 516;

Henrietta Coal Co. v. Martin, 221 Ill. 460;

Eldorado Coal & Coke Co. v. Swan, 227 Ill. 586;

Aetitus v. Spring Valley Coal Co., 246 Ill. 32, p. 41.

In an action by a miner for damages on the ground of the alleged failure of the mine examiner properly to report a dangerous condition or place in a mine, where the mine operator shows in defense of the action that the mine examiner did examine the mine and report and record in a book for that purpose the result of the examination and that his report showed the place in controversy to be dangerous, the injured miner may in his behalf show that the mine operator had theretofore used an old book; that the mine had been shut down for about a week, and a new book had been procured and the reports made and entered in such new book, but that the complainant had not been informed of the use of such new book, had no knowledge of it, and that the old book was kept in its usual place and that he had seen and consulted it on the morning of the accident.

Felick v. Illinois Collieries Co., 149 Ill. App. 607, p. 609.

In an action by a miner to recover damages for personal injuries by reason of a willful violation of the statute on the part of the mine operator, it is error to permit the plaintiff to prove that the mine operator had made no report of the accident to the State inspector, as required by the statute, as such fact is not involved in the issue.

Haywood v. Dering Coal Co., 145 Ill. App. 506, p. 510.

In an action for damages by a miner injured by an explosion of gas in a mine, it is not necessary to show the operator's knowledge of the condition resulting from the willful violation of the statute, but it is not harmful to the operator to show that three or four days before the accident the fire boss and mine examiner knew that what was then being done in a certain entry was dangerous to the lives of the miners in that part of the mine.

Athens Mining Co. v. Carnduff, 221 Ill. 354, p. 360.

In an action for damages by a car driver for injuries on the ground of an alleged violation of the statute, in that the mine operator laid and maintained a compressed-air pipe in a dangerous condition and dangerously near the car tracks, there was no proof to show that the location of the pipe so close to the rail was an engineering problem or that any engineering difficulties would have been encountered in locating it at a greater distance.

Alexander v. Donk Bros. Coal & Coke Co., 149 Ill. App. 378, p. 380;
Gruenendahl v. Consolidated Coal Co., 108 Ill. App. 644.

In an action for damages by a miner for injuries caused by being thrown from a motor, due to an alleged violation of the statute in that the mine operator permitted the track to be and remain in a defective condition, the ties to become worn, rotten, and defective, making the track uneven and rough, and by reason of which the motor operated by the complainant was thrown from the track and the complainant injured, it was error for the court to refuse to permit the mine operator to show under what circumstances a tie, alleged to be rotten, and shown by the complainant to have been removed by trackmen, was replaced.

Keller v. Chicago-Wilmington-Vermilion Coal Co., 184 Ill. App. 248, p. 253.

In an action by a miner for damages for injuries caused by the alleged failure of the mine operator to properly ventilate the mine in violation of the statute, the complainant is entitled to recover notwithstanding the bad condition of the air at his working place that was caused by the act of a fellow servant, or by reason of a driver negligently leaving a mine door open, although such acts of the servant and the driver and that such acts were not wilfully caused to be done by the mine operator.

Frey v. Kerens-Donnewald Coal Co., 152 Ill. App. 548, p. 552;
Stevenson v. Avery Coal & Min. Co., 143 Ill. App. 397.
See Hougland v. Avery Coal & Min. Co., 152 Ill. App. 573.

A jury in determining whether the failure of the mine examiner to examine and properly record a dangerous condition in a mine was the cause of the miner's injury complained of, may consider whether the miner read or attempted to read, the record before entering the mine on the day of the injury, and also his ability to read the language in which it was read.

Lolli v. Spring Valley Coal Co., 193 Ill. App. 234, p. 236.

In an action by a miner for damages for injuries caused by an alleged violation of the mining act it is not reversible error for the trial court to refuse to permit the plaintiff while testifying as a witness to be asked in the presence of the jury as to his willingness to submit his whole body to the examination of physicians.

Guthrie v. Empire Coal Co., 150 Ill. App. 530, p. 535.

In an action by a miner for damages for injuries sustained by reason of the alleged wilful violation of the statute on the part of the mine operator, it is

proper to admit in evidence where the proper foundation is laid, x-ray photographs of the part of the body and the bones alleged to be injured.

Haywood v. Dering Coal Co., 145 Ill. App. 506, p. 511.

In a cause of action that has accrued to a miner for the violation of the mining act as amended in 1907, his rights must be determined under the law as it then stood although the action for damages was brought after the act of 1911 had gone into effect.

Layher v. Chicago-Sandoval Coal Co., 179 Ill. App. 476, p. 481;

Schultz v. Burnwell Coal Co., 180 Ill. App. 693, p. 699;

Wells v. Lumaghi Coal Co., 183 Ill. App. 404, p. 408.

See Shinnars v. Royal Coal & Min. Co., 188 Ill. App. 335, p. 338;

Mygatt v. Southern Coal Min. Co., 180 Ill. App. 150, p. 153.

69. ACTION BY INJURED MINER—INSTRUCTIONS BY COURT.

An instruction in an action by a miner for damages for injuries which quotes substantially section 18 of the statute is not error.

Mertens v. Southern Coal & Min. Co., 140 Ill. App. 190, p. 193.

In an action by a coal miner for injuries received because of the failure of the mine owner and operator to comply with the statute, an instruction by the court which in general terms is in the language of the statute as to the duties of the owner and operator is not error, although it may omit the particular omission of duty relied upon for recovery.

Mount Olive & Staunton Coal Co. v. Rademacher, 190 Ill. 538, p. 542;

Donk Bros. Coal & Coke Co. v. Peton, 192 Ill. 41, p. 44;

Kellyville Coal Co. v. Strine, 217 Ill. 516, p. 535.

In an action by a coal miner against a mine operator for damages for injuries received while working in a mine, it is error for the court to instruct the jury to the effect that the statutes require that in case the galleries, roadways, or entries of any mine are so dry that the air becomes charged with dust, the operator of such mine must have such roadway regularly and thoroughly sprayed, sprinkled or cleaned, and it shall be the duty of the inspector to see that all possible precautions are taken against the occurrence of explosions which may be occasioned or aggravated by the presence of dust, and where no application is made of the instruction to the facts proved in the case.

Chicago, Virden Coal Co. v. Rucker, 116 Ill. App. 425, p. 427.

In an action by an injured miner against an operator for damages, the operator cannot complain because the court instructed the jury as to all the duties of a mine examiner where the instruction was substantially in the language of the statute, although the evidence showed a violation of certain of the provisions of one section only.

Mount Olive & Staunton Coal Co. v. Rademacher, 190 Ill. 538;

Kellyville Coal Co. v. Strine, 217 Ill. 516, p. 536;

Mertens v. Southern Coal & Min. Co., 235 Ill. 540, p. 557.

In an action against a mine operator for damages for the death of a miner caused by a fall of rock from the roof of the miner's working place, the court instructed the jury to the effect that the fact that the deceased miner, after discovering that the rock in the roof was loose and pressing on another rock in the side of his working place and that neither of the rocks had any support under it, continued to work under and around such rocks until the time of the accident, would not alone defeat a recovery if the jury believed from the evidence that the mine operator willfully failed to deliver props as demanded. This instruction is a correct statement of the law and amounted to no more than telling the jury

that contributory negligence on the part of the deceased miner in working in the dangerous place after knowledge of the danger would not bar a recovery.

Arkley v. Niblack, 272 Ill. 356, p. 361.

70. ACTION FOR DEATH—RIGHT TO SUE—WIDOW OR DEPENDENTS.

The statute of 1899 authorizes but one action for the death of a miner and the widow is one of the parties authorized to bring the action.

Consolidated Coal Co. v. Dombrowski, 106 Ill. App. 641, p. 642.

See Litchfield Coal Co. v. Taylor, 81 Ill. 590;

Consolidated Coal Co. v. Yung, 24 Ill. App. 255;

Brennan v. Chicago & Carterville Coal Co., 147 Ill. App. 263, p. 271;

McFadden v. St. Paul Coal Co., 183 Ill. App. 36, p. 40.

Under the statute of 1899 (sec. 33), where a deceased miner left only a widow she is entitled to the entire amount of recovery.

Beard v. Skeldon, 113 Ill. 584;

Willis Coal Min. Co. v. Grizzell, 198 Ill. 313;

Merlo v. Johnston City-Big Muddy Coal & Min. Co., 258 Ill. 328, p. 345.

See Hochstettler v. Mosier Coal & Min. Co., 8 Ind. App. 442;

Kellyville Coal Co. v. Bruzas, 125 Ill. App. 464, p. 468;

Hart v. Penwell Coal Min. Co., 146 Ill. App. 155, p. 156.

An action for damages for the death of a miner under the statute can only be maintained in the name of the widow, who, if living, is the only person authorized by the act to sue.

McCray v. Moweaqua Coal Min., etc., Co., 149 Ill. App. 565, p. 563.

The statute gives the right of action first to the widow if she survives; second to the lineal heirs or adopted children in case the widow does not survive, and a joinder of the widow and the lineal heirs is improper.

Hart v. Penwell Coal Min. Co., 146 Ill. App. 155, p. 157;

McFadden v. St. Paul Coal Co. 183 Ill. App. 36 p. 40.

The statute of 1899 means that only such of the next of kin as were actually dependent on the deceased for support can sue; but the dependency need not be a legal dependency, nor a brother or sister need not be wholly dependent upon the deceased person.

Willis Coal & Min. Co. v. Grizzell, 198 Ill. 313, p. 315.

See Merlo v. Johnston City & Big Muddy Coal Min. Co., 258 Ill. 328, p. 332;

McFadden v. St. Paul Coal Co., 263 Ill. 441, p. 445;

Kellyville Coal Co. v. Bruzas, 125 Ill. App. 464, p. 468;

Hoover v. Empire Coal Co., 149 Ill. App. 258, p. 267.

There is no misnomer or variance in the name where an action was brought in the name of the widow for damages for the death of her husband, a miner, caused by an alleged violation of the statute by the mine operator, where the plaintiff, pending the suit, was married to a man with a different name.

Romani v. Schoal Creek Coal Co., 191 Ill. App. 521, p. 524.

A father and mother as lineal heirs are the proper and only persons authorized to bring an action under the Mines Act for the death of an unmarried son.

McFadden v. St. Paul Coal Co., 183 Ill. App. 36, p. 39.

The lineal heirs or lineal consanguinity is that relation which exists among persons where one is descended from the other, as between the son and father or grandfather and so upward in the ascending line and between the father and the son or the grandson so downward in a direct descending line. Under this rule a father is entitled to sue for the death of his son where the son left no child, children, descendants of children or adopted child or children and no mother.

Willis Coal & Min. Co. v. Grizzell, 198 Ill. 313, p. 317;

Willis Coal & Min. Co. v. Grizzell, 100 Ill. App. 480, reversed.

See McFadden v. St. Paul Coal Co., 263 Ill. 441, p. 445.

The statute in force in 1853 (Laws of 1853, p. 97) applied to an employer or employee in mining coal with the same force and effect as in any other situation where duties and obligations arise out of the relations of the parties to each other. But the general assembly also provided a remedy in this act of 1899 applicable only to persons engaged in mining coal, in which the liability of the employer rests upon some different grounds. In the case of a death coming within the provisions of this act in relation to mines, the right of action for the damages was vested in the widow, otherwise in the lineal heirs or adopted children or to other dependent person or persons. It was for the general assembly to decide who should bring the action and how the damages should be distributed, and in either case the right conferred is to recover the whole damage. The mining act authorizes but one action and one recovery for the entire loss and damage occasioned by the death.

McFadden v. St. Paul Coal Co., 263 Ill. 441, p. 443.

See Consolidated Coal Co. v. Maehl, 130 Ill. 551;

Cook v. Big Muddy-Carterville Min. Co., 249 Ill., p. 41.

In an action under the statute of 1899 by a widow for damages for the death of her husband killed while working in a mine, the widow may testify that her deceased husband was at the time of his death her sole support.

Kulvie v. Bunsen Coal Co., 253 Ill. 386, p. 392.

Section 33 of the act of 1899 expressly names the persons who may sue for injury or for the death of a miner caused by the failure of a mine operator to comply with the statute. The language of the statute does not except non-residents nor preclude them from the right to sue under its provisions. A mother who is a nonresident alien may under this statute maintain an action against a mine owner for the wrongful death of a son.

Kellyville Coal Co. v. Petraytis, 195 Ill. 215, p. 216;

Kellyville Coal Co. v. Petraytis, 95 Ill. App. 635 Aff.;

Maplewood Coal Co., In re, 213 Ill. 283, p. 285.

The right of action given by this statute to a widow for the death of her husband from a willful violation of the act, or a willful failure to comply with any of its provisions is controlled by the general laws governing the limitation of personal actions.

Donk Bros. Coal & Coke Co. v. Sapp, 133 Ill. App. 92, p. 95.

Where a willful violation of the provisions of the statute result in injury to an employee the statute of 1899 gives him an action for the direct damages sustained therefor; and in case of loss of life by reason of such willful violation of the statute a right of action is given to the widow or the lineal heirs or adopted children or to any other dependent person. The statute does not give a right of action to an administrator of the person killed and an administrator cannot maintain an action for damages under this statute.

Hoover v. Empire Coal Co., 149 Ill. App. 258, p. 260.

The statute of 1899 gives a right of action for the wrongful death of a miner to the widow of the person killed, his lineal heirs or adopted children or to any other person or persons who were dependent for support on the person killed; but this does not give a right of recovery to a married sister who at the time of the death was living with her husband in a different county and in no wise depending upon the deceased brother for support.

Willis Coal & Min. Co. v. Grizzell, 198 Ill. 313, p. 315.

See Merlo v. Johnston City-Big Muddy Coal Min. Co., 258 Ill. 328, p. 332;

McFadden v. St. Paul Coal Co., 263 Ill. 441, p. 445;

Kellyville Coal Co. v. Bruzas, 125 Ill. App. 464, p. 468;

Hoover v. Empire Coal Co., 149 Ill. App. 258, p. 267.

In an action for the death of a coal miner the mine operator can not defeat the action by showing that he employed the deceased miner as a shot-firer, where such employment would be in violation of the statute and where the deceased miner held a certificate from the examining board as a coal miner only and not as a shot-firer.

Kulvie v. Bunsen Coal Co., 161 Ill. App. 617, p. 620.

A person authorized by the statute to sue for damages for the death of a miner is authorized to compromise and settle the case and claim.

McFadden v. St. Paul Coal Co., 183 Ill., App. 36, p. 41 (1913).

Section 29 of the act of 1911 gives a right of action to the personal representative of the deceased for the benefit of the widow and next of kin or dependent person, and takes the place of section 33 of the act of 1899 by which a right of action was given to the widow, heirs or dependent persons.

Shinners v. Royal Coal & Min. Co., 188 Ill. App. 335, p. 341.

An action by a mother for damages for the death of her son caused by falling pipe and material in an incomplete shaft, defeated on the ground that the mining act did not apply to such incomplete shaft, is not a bar to a common law action by the mother for damages for the death of her son on the general ground of negligence.

Swengel v. LaSalle County Carbon Coal Co., 182 Ill. App. 623, p. 630.

71. ACTION FOR DEATH—MEASURE OF DAMAGES—PROOF.

Section 33 of the act of 1899 authorizes a recovery by a son for any direct damages sustained by him on account of the death of his father not exceeding the sum of \$5,000. The measure of damages in such case must be damages sufficient to compensate for the pecuniary loss which a decedent's wife or children or both, have sustained in consequence of the death of the husband and father; and this is such a sum only as the deceased would probably have earned by his intellectual and bodily labor at his business, profession or trade during the residue of his probable life, which would have gone for the benefit of his wife and children. In estimating the damages his age, business capacity, ability and disposition to labor, and his habits of living are properly to be considered and also the value of the father's services in the attention to and care and superintendence of his children and family and in the education of his children, of which they are deprived by his death.

O'Fallon Coal & Min. Co. v. Laquet, 198 Ill. 125, p. 127;

O'Fallon Coal & Min. Co. v. Laquet, 89 Ill. App. 13, affirmed.

See *Willis Coal & Min. Co. v. Grizzell*, 198 Ill. 313.

In an action for damages for the death of a miner a jury may in making the estimate of such damages take into consideration whether or not the deceased left surviving, in addition to the widow, any children.

Beard v. Skeldon, 113 Ill. 584;

Kulvie v. Bunsen Coal Co., 253 Ill. 386, p. 393.

The mining act of 1899 contemplates a recovery of the entire loss by a widow, if there is one; if none, the right of action is conferred upon the lineal heirs or adopted children; but if there is neither widow, lineal heirs, nor adopted children, then any person dependent for support upon the person killed may maintain an action. If an action is brought by the widow, who is entitled to

a recovery of the whole damages occasioned by the death of the husband, the jury may take into consideration whether the deceased left any children.

Cook v. Big Muddy-Carterville Min. Co., 249 Ill. 41, p. 51.

See *Consolidated Coal Co. v. Maehl*, 130 Ill. 551.

In an action by a widow for the death of her husband, a shot firer, caused by an explosion in a mine, due to the alleged violation of the statute in failing to properly ventilate the mine and in permitting an accumulation of dangerous gas, the testimony as to damages should be limited to the earning of the husband; the age, habits, and condition of his health, and whether the wife was supported by him. But evidence that the wife and children were dependent upon the deceased for support before and at the time of his death, and that he was their sole means of support, is competent.

Conover v. Harrisburg & Southern Coal Co., 161 Ill. App. 74, p. 79.

See *Brennen v. Chicago & Carterville Coal Co.*, 241 Ill. 610;

Kulvie v. Bunsen Coal Co., 161 Ill. App. 617, p. 622;

Cook v. Big Muddy Carterville Min. Co., 249 Ill. 41.

An action under the statute for the death of a miner is not to recover a penalty but is to recover the damages for the death of a miner caused by the violation of the statute.

Missouri & Illinois Coal Co. v. Schwalb, 74 Ill. App. 567, p. 573.

See *Missouri & Illinois Coal Co. v. Schwalb*, 77 Ill. App. 593.

Before a recovery of damages can be had in an action for the death of a miner due to the alleged violation of the statute the proof must show that the alleged violation of the Statute was willful and that the death complained of resulted from such failure.

Missouri & Illinois Coal Co. v. Schwalb, 74 Ill. App. 567, p. 573.

See *Missouri & Illinois Coal Co. v. Schwalb*, 77 Ill. App. 593.

72. ACTION FOR DEATH—PROOF OF DEPENDENCE.

In an action for wrongful death it is proper to show that a wife, children, or next of kin were dependent upon the deceased for support before and at the time of his death, and such damages may be recovered as are a fair and just compensation for the pecuniary injury resulting from the death to the wife and next of kin of the deceased person. It can not be said in such an action that proof that the wife or next of kin of the deceased were, at and before the time of his decease, dependent upon him for support or that he was the sole support. It is proper to admit evidence of the resources of a widow or next of kin or their financial condition and it is not error to allow questions concerning the earnings of the deceased and whether the wife and children were supported by him.

Brennen v. Chicago & Carterville Coal Co., 241 Ill. 610, p. 620;

See *McCarthy v. Spring Valley Coal Co.*, 232 Ill. 473;

Conover v. Harrisburg & Southern Coal Co., 161 Ill. App. 74, p. 79.

The statute of 1899 provides that a right of action shall accrue to the widow of the person killed under certain circumstances for the recovery of damages for the injuries sustained by reason of such death. It can not be held that pecuniary injury sustained would be the same for all widows regardless of the question of support or receipt of pecuniary aid from the deceased husband in his lifetime or that it is sufficient to prove that a plaintiff is the widow of the deceased and that the entire measure of damages must depend upon the earning capacity of the deceased, leaving out of the question the fact that he did or did not contribute any of his earnings to the support of the widow. To

give meaning to the statute and to show the actual pecuniary loss sustained by the widow, it is necessary to show in an action by a widow for the death of her husband whether she did in fact receive any support or pecuniary aid or had reason to believe that she would thereafter receive such. A widow would, in any event, be entitled to nominal damages in a proper case, but the amount of actual damages must necessarily depend on the real, actual pecuniary injury to or caused by the death, and such damages can not be fully determined without ascertaining the amount of pecuniary assistance, by support or otherwise, she had actually been deprived of by the death of her husband.

Brennan v. Chicago & Carterville Coal Co., 147 Ill. App. 263, p. 271.

In an action by a widow for damages for the death of her husband, a miner, whose death was caused by an alleged violation of the statute, it is proper to show that the deceased left a widow, the plaintiff, and children surviving.

Beard v. Skeldon, 113 Ill. 584;

Kulvie v. Bunsen Coal Co., 161 Ill. App. 617, p. 620.

In an action by a widow against a coal mine operator for damages for the death of her husband, caused by a violation of the statute, it is not error to admit proof that the deceased husband supported his family with wages and that he was a good provider.

Brennan v. Chicago & Carterville Coal Co., 147 Ill. App. 263, p. 273.

The statute makes the pecuniary loss of the widow and the next of kin the sole measure of damages. Where the next of kin are collateral kindred and have not been receiving pecuniary assistance from the deceased and are not in a situation to require such aid, it is immaterial how near the relationship may be, as only nominal damages may be assessed.

Romeo v. Western Coal & Min. Co., 157 Ill. App. 67, p. 71;

Peabody Coal Co. v. Industrial Board, etc., ——— Ill. ———, 117 N. E. 983.

73. ACTION FOR DEATH—PARTIES—CHANGE IN STATUTE.

The amendatory act of 1911 (sec. 29) now gives the right of action to the personal representative of a deceased miner for the exclusive benefit of the widow and next of kin and also to any other person or persons dependent for support on the deceased.

McFadden v. St. Paul Coal Co., 183 Ill. App. 36, p. 40.

See *Wells v. Lumaghi Coal Co.*, 183 Ill. App. 404, p. 408.

Under section 33, act of 1899, a right of action accrued to the widow of a person killed by reason of a willful violation of the statute or to his lineal heirs or adopted children, or to any other person or persons dependent for support upon the person killed, the right to recover for any sum not exceeding \$10,000. Section 29 of the act of 1911 gives a right of action to the personal representative of a person killed by reason of a willful violation of that act for the exclusive benefit of the widow and next of kin and to any other person or persons dependent for support on the person killed for a like recovery, with a proviso that the amount recovered should be distributed to the widow, next of kin, as personal property of intestates is distributed.

Merlo v. Johnston City & Big Muddy Coal Min. Co., 258 Ill. 328, p. 344.

See *Mengelkamp v. Consolidated Coal Co.*, 259 Ill. 305, p. 313.

Section 33 of the act of 1899 provided that in case of loss of life by reason of a willful violation of the statute a right of action accrues to the widow of the deceased, his lineal heirs or adopted children or other dependent persons. Section 29 of the act of 1911 gives a right of action to the personal representative of the deceased for the exclusive benefit of the widow and next

of kin or to dependent persons and provides for distribution of the recovery. The rights of beneficiaries under the old and the new act are the same.

Shimmers v. Royal Coal & Min. Co., 188 Ill. App. 335, p. 340.

There are two important differences between section 29 and the act of 1911 and section 33 of the act of 1899 with respect to the right of action for the death of a minor caused by the willful violation of the statute. Under the act of 1911 the suit is to be in the name of the personal representative, whereas under the old law it was in the name of the widow. A recovery under the old law was for the exclusive benefit of the widow, lineal heirs, adopted children, and dependent persons, while under the act of 1911 the recovery is for the benefit of the widow, next of kin, and dependent persons. The substitution of the personal representative for the widow as plaintiff is a mere matter of procedure and does not affect the substantial rights of the parties.

Merlo v. Johnston City & Big Muddy Coal Min. Co., 258 Ill. 328, p. 345.

See *Hochstettler v. Mosier Coal & Min. Co.*, 8 Ind. App. 442.

An action for damages for the death of a miner brought after the act of 1911 became effective and which accrued before the passage of the act must be brought by the personal representatives as provided in that act and not in the name of the next of kin as provided in the act of 1899.

Wells v. Lumaghi Coal Co., 183 Ill. App. 404, p. 409.

See *Roach v. Willis Coal & Min. Co.*, 183 Ill. App. 577, p. 578.

A cause of action accruing to an administrator by virtue of the "Injuries act" to recover damages for the benefit of the widow or next of kin of the intestate is separate, distinct, and different from the cause of action accruing by virtue of the act of 1899 to the widow, lineal heirs, adopted children, or other person or persons dependent for support upon the deceased for the recovery of damages.

Chicago-Virden Coal Co. v. Bradley, 134 Ill. App. 234, p. 238.

The act of 1899 was not so far repealed by the act of 1911 as to deprive a miner of a right of action that had accrued under that act.

Shimmers v. Royal Coal & Min. Co., 188 Ill. App. 335, p. 340.

See *Merlo v. Johnston City & Big Muddy Coal & Min. Co.*, 258 Ill. 328.

The act of 1907 is legislation independent of the general act of 1899 relating to mines and miners, and a violation of this act resulting in the death of a miner does not give to the widow of a deceased miner the right of action to recover damages for the husband's death as did section 33 of the general law of 1899.

Hollingsworth v. Chicago & Carterville Coal Co., 243 Ill. 98, p. 106.

Haugland v. Avery Coal & Mining Co., 246 Ill. 615.

The personal representative should be made plaintiff in a suit under the act of 1911 for a death occurring before that act was passed; but if erroneously commenced in any other name the defect can be cured in the trial court by amendment. Where a suit was brought by the proper plaintiff under the act of 1899 a final judgment rendered in the trial court before the act of 1911 took effect, and the case was appealed after the act of 1911 took effect, an amendment by substituting the proper plaintiff could be made either in the appellate or in the Supreme Court.

Merlo v. Johnston City & Big Muddy Coal Min. Co., 258 Ill. 328, p. 345.

See *Hochstettler v. Mosier Coal & Min. Co.*, 8 Ind. App. 442;

Mengelkamp v. Consolidated Coal Co., 259 Ill. 305, p. 313;

Wells v. Lumaghi Coal Co., 183 Ill. App. 404, p. 409.

74. ACTION FOR DEATH—LIMITATION.

Section 33 of the amendatory act of 1907 limits the time within which a widow of a coal miner can sue for the death of her husband caused by the alleged violation of the mining statute to one year. There is nothing in the act to indicate that a retroactive effect was intended or that the amendment should apply to a cause of action which arose before the amendment took place; and the amendment does not bar a cause of action that had accrued under the act of 1905 prior to the enactment of this statute.

Gruber v. LaSalle County Carbon Coal Co., 150 Ill. App. 427, p. 429.

Where a cause of action was brought under the provisions of the act of 1899 for damages for the death of a miner and the declaration was amended and changed to a cause of action accruing under the "Injuries act," the amendment is barred by the statute of limitations, if at that time the cause of action under the "Injuries act" would be barred.

Chicago-Virden Coal Co. v. Bradley, 134 Ill. App. 234, p. 239.

The statute in force in 1906 concerning coal mines contained no limitation of time within which a suit could be brought to recover damages for the death of a miner, and the only limitation upon such actions is that in the general chapter on limitations on actions, and this chapter limits the bringing of all civil actions not otherwise provided for to five years.

Gruber v. LaSalle County Carbon Coal Co., 150 Ill. App. 427, p. 428.

In an action by a widow for damages for the death of her husband, a miner, caused by the alleged violation of the statute by the mine operator, the defendant, by filing the general issue, waived any alleged error of the court in sustaining a demurrer to a plea of the statute of limitations.

Romani v. Schoal Creek Coal Co., 191 Ill. App. 521, p. 524.

75. CAUSE OF ACTION SAVED.

All undetermined claims arising under the statute of 1899, whether suit had been commenced or not prior to July 1, 1911, are saved by the general saving statute (Hurd., R. S., chap. 131, sec. 2; Jones & Addington, sec. 11103); and the provisions of this statute, so far as they concern the cause of action, continue until the case is disposed of.

Shinners v. Royal Coal & Min. Co., 188 Ill. App. 335, p. 341.

An action by a miner for damages for injuries caused by a willful violation of the mining act pending at the time of the death of the plaintiff survives his death, and the prosecution of the case may be continued in the name of the widow.

Clark v. O'Gara Coal Co., 140 Ill. App. 207, p. 209.

Undetermined claims for damages for injuries to a coal miner arising under the act of 1899, whether suit has been commenced or not prior to the time the act of 1911 took effect, are saved, and the provisions of the old statutes, so far as they concern the cause of action, continue until the case is disposed of.

Shinners v. Royal Coal & Min. Co., 188 Ill. App. 335, p. 341.

The act of 1899 was in the main covered by the subjects included in the act of 1911 in relation to coal mines, and was repealed by the latter act without any saving clause. But where a right of action had accrued under the mining act of 1899, or the amendatory act of 1907, before the passage of the repealing act,

the injured miner was entitled to avail himself of the provisions of the act in force when he was injured as to the duties owed to him by the mine operator.

Layher v. Chicago-Sandoval Coal Co., 179 Ill. App. 476, p. 481;

Mygatt v. Southern Coal & Min. Co., 180 Ill. App. 150, p. 153.

See Schultz v. Burnwell Coal Co., 180 Ill. App. 693, p. 699;

Wells v. Lumaghi Coal Co., 183 Ill. App. 404, p. 408;

Shinners v. Royal Coal & Min. Co., 188 Ill. App. 335, p. 338.

The act of 1911 was intended in the main to cover the subjects included in the mining act of 1899 and the amendatory act of 1907, and repealed the former act without any saving clause as to accrued rights. But where a right of action had accrued to a miner for damages for a violation of the statute before the passage of this act he was entitled in an action subsequently brought to avail himself of the provisions of the act in force at the time of his injury as to the duties owed to him by the mine operator.

Layher v. Chicago-Sandoval Coal Co., 179 Ill. App. 476, p. 483.

The statute of 1911 does not so far repeal the miners' act of 1899 as to affect the legal status of a cause of action arising under such former act.

Shinners v. Royal Coal & Min. Co., 188. App. 335, p. 340.

The act does not repeal the act of 1897 to the extent of taking from a miner a right of action accruing under that statute, although this revision is a general repeal of all former mining acts; but the right of action is preserved to the injured miner under the general statute saving causes of action that accrued under any former statute.

Schultz v. Burnwell Coal Co., 180 Ill. App. 693, p. 699;

Wells v. Lumaghi Coal Co., 183 Ill. App. 404, p. 409;

Roach v. Willis Coal Min. Co., 183 Ill. App. 587, p. 588.

Substantially all the subjects covered by the act of 1899 are reenacted in the amending act of 1911, and under the general saving statute all undetermined claims arising under this act, whether suit had been commenced or not prior to July 1, 1911, are saved, and the provisions in sections 18 and 19 of this act, so far as they concern the cause of action, can be regarded as continued in sections 14 and 21 of the act of 1911 until such action is finally disposed of.

Merlo v. Johnston City & Big Muddy Coal Min. Co., 258 Ill. 328, p. 344.

See Mengelkamp v. Consolidated Coal Co., 259 Ill. 305, p. 307;

Wells v. Lumaghi Coal Co., 183 Ill. App. 404, p. 409.

Sections 14 and 21 of the act of 1911 substantially continue the provisions of sections 18 and 19 of the act of 1899 as to any claim or right of action for damages accruing under the act of 1899 and continue such right until the cause is finally disposed of.

Merlo v. Johnston City & Big Muddy Coal Min. Co., 258 Ill. 328, p. 345;

Mengelkamp v. Consolidated Coal Co., 259 Ill. 305.

The act of 1911 does not take away the right of a miner or a car driver in a mine to maintain an action under section 18 of the amendatory act of 1907 for damages for injuries caused by the willful failure of a mine operator to comply with that act in permitting an accumulation of gob in the haulage way which constituted a dangerous condition within the meaning of that act.

Eaton v. Marlon County Coal Co., 257 Ill. 567, p. 570.

The right of a miner under section 18 of the act of 1907, which is amendatory of the act of 1899, to recover for injuries caused by a willful failure of the mine operator to mark a dangerous condition and in permitting an obstruction in the haulage way to remain so close to the track as to make the place of work dangerous, was not taken away or affected by the act of 1911.

Eaton v. Marlon County Coal Co., 257 Ill. 567, p. 571;

Mengelkamp v. Consolidated Coal Co., 259 Ill. 305, p. 307.

76. CONTRIBUTORY NEGLIGENCE—DEFENSE ABROGATED.

In an action by a miner for damages for injuries caused by an alleged willful violation of the statute on the part of the mine operator, the contributory negligence of the injured miner is not available to the operator as a defense.

Carterville Coal Co., v. Abbott, 181 Ill. 495;
 Kellyville Coal Co. v. Strine, 217 Ill. 516;
 Henrietta Coal Co. v. Martin, 221 Ill. 470;
 Brunnworth v. Kerens-Donnewald Coal Co., 260 Ill. 202, p. 215;
 Donk Bros. Coal & Coke Co. v. Stroff, 100 Ill. App. 576, p. 581;
 Marquette Third Vein Coal Co. v. Allison, 132 Ill. App. 221, p. 232;
 Maplewood Coal Co. v. Graham, 134 Ill. App. 277, p. 279;
 Guthrie v. Empire Coal Co., 142 Ill. App. 332, p. 335;
 Karkowski v. La Salle County Carbon Coal Co., 154 Ill. App. 399, p. 405;
 Elam v. Majestic Coal & Coke Co., 155 Ill. App. 375;
 Franci v. Tazewell Coal Co., 157 Ill. App. 477, p. 481;
 Fuchs v. Consolidated Coal Co., 157 Ill. App. 41, p. 45;
 Wilkerson v. Willis Coal & Min. Co., 158 Ill. App. 620, p. 626.
 See Cook v. Big Muddy-Carterville Min. Co., 249 Ill. 41;
 Brunnworth v. Kerens-Donnewald Coal Co., 169 Ill. App. 58;
 Chicago-Coulterville Coal Co. v. Fidelity etc. Co., 130 Fed. 957.

The law of 1899 was intended to create a civil liability to which contributory negligence, upon the part of the injured miner, would not be a defense.

Fulton v. Wilmington Star Min. Co., 133 Federal 193, p. 196;
 Carterville Coal Co. v. Abbott, 181 Ill., 496.

Contributory negligence on the part of a miner while at work in a mine will not defeat a right of recovery where he was injured by a willful disregard of the provisions of the statute, either by an act of omission or commission on the part of the owner, operator or manager of the mine.

Spring Valley Coal Co. v. Patting, 210 Ill. 342;
 Mertens v. Southern Coal & Min. Co., 235 Ill. 545, p. 546;
 Tomasi v. Donk Bros. Coal & Coke Co., 257 Ill. 70, p. 74;
 Piazzi v. Kerens-Donnewald Coal Co., 262 Ill. 30, p. 35;
 Davis v. Missouri & Illinois Coal Co., 186 Ill. App. 478, p. 487.
 See Taylor Coal Co. v. Dawes, 122 Ill. App. 389, p. 394.

In construing the mining statutes courts have held that mere contributory negligence on the part of a miner will not defeat an action to recover for injuries caused by the willful disregard of the statute either by an act of omission or commission on the part of the owner, operator or manager.

Kellyville Coal Co. v. Strine, 217 Ill. 516, p. 523.
 See Kellyville Coal Co. v. Strine, 117 Ill. App. 115.

Where a coal mine owner, operator or manager wilfully disregards a duty enjoined on him by legislation, he cannot say that because a miner or an employee enters the mine as a miner with knowledge that the owner or operator has failed to comply with his duty, he is guilty of contributory negligence.

Kellyville Coal Co. v. Strine, 217 Ill. 516, p. 526;
 Pawnee Coal Co. v. Royce, 184 Ill. 402;
 Odin Coal Co. v. Denman, 185 Ill. 413;
 Western Anthracite Coal & Coke Co. v. Beaver, 192 Ill. 333;
 Spring Valley Coal Co. v. Rowatt, 196 Ill. 156;
 O'Fallon Coal & Mining Co. v. Laquet, 198 Ill. 125;
 Willis Coal & Mining Co. v. Grizzell, 198 Ill. 313;
 Donk Bros. Coal Co. v. Stroff, 200 Ill. 483;
 Riverton Coal Co. v. Shepherd, 207 Ill. 395;
 Marquette Third Vein Coal Co. v. Dielie, 208 Ill. 116;
 Peebles v. O'Gara Coal Co., 239 Ill. 370, p. 373;

Kirchener v. Schoal Creek Coal Co., 162 Ill. App. 52, p. 54;
 Kilduff v. Consolidated Coal Co., 164 Ill. App. 104, p. 197.
 See Henrietta Coal Co. v. Martin, 221 Ill. 460;
 Eldorado Coal Co. v. Swan, 227 Ill. 586;
 Davis v. Illinois Collieries Co., 232 Ill. 284;
 Olson v. Kelly Coal Co., 236 Ill. 502;
 Brunnworth v. Kerens-Donnewald Coal Co., 260 Ill. 202, p. 212.

In an action for damages for the death of a miner caused by the alleged wilful violation of the statute, no conduct of the deceased miner short of wilful seeking the very injury that caused his death can have the effect of barring a recovery where the operator's wilful conduct brought about the injury.

Donk Bros. Coal & Coke Co. v. Stroff, 100 Ill. 576, p. 582.

In an action for damages for injuries or death caused by the wilful violation of, or the wilful failure to comply with the positive requirements of the statute, it is no defense to show that the person injured or killed by reason of such violation or failure, was himself negligent and thereby contributed to such injury or death or that he continued in the service and assumed the risk of the increased hazards.

Himrod Coal Co. v. Adack, 94 Ill. App. 1, p. 4;
 Consolidated Coal Co. v. Bokamp, 181 Ill. App. 9.
 See Carterville Coal Co. v. Abbott, 181 Ill. App. 495, p. 498.

In any action by a miner for injuries received because of the alleged failure of the mine operator to comply with the statute the question of contributory negligence on the part of the miner does not arise as it constitutes no defense in such an action and the miner does not assume the risk due to the operator's failure to comply with the statute or to exercise reasonable care and prudence.

Riverton Coal Co. v. Shepherd, 111 Ill. App. 294, p. 302;
 Spring Valley Coal Co. v. Rowatt, 196 Ill. 156.
 Illinois Collieries Co. v. Davis, 137 Ill. App. 15, p. 20.
 See McCarthy v. Spring Valley Coal Co., 149 Ill. App. 275, p. 279;
 Himrod Coal Co. v. Clark, 197 Ill. 514.

A shot-firer is within the protection of this act and his contributory negligence will not defeat a recovery.

Davis v. Illinois Collieries Co., 232 Ill. 284, p. 290;
 Brennen v. Chicago & Carterville Coal Co., 241 Ill. 610, p. 618;
 Houghland v. Avery Coal Min. Co., 246 Ill. 609, p. 615;
 Stevenson v. Avery Coal & Min. Co., 143 Ill. App. 397, p. 399.

The contributory negligence of a shot-firer or of a miner who prepared the shot is no defense to an action for damages under the general mining statute for the death of a miner caused by a wilful violation of the statute.

Illinois Collieries Co. v. Davis, 137 Ill. App. 15, p. 20;
 Stevenson v. Avery Coal & Min. Co., 152 Ill. App. 565, p. 571;
 Houghland v. Avery Coal & Min. Co., 152 Ill. App. 573;
 Roach v. Willis Coal Min. Co., 183 Ill. App. 577, p. 578.

A coal mine operator is liable on proof of a wilful violation of the miners' act for all injuries caused thereby to an injured miner notwithstanding the fact that the acts of the latter may have aggravated the injuries or rendered him more susceptible to receiving the same.

Frey v. Kerens-Donnewald Coal Co., 152 Ill. App. 548, p. 550;
 See Kellyville Coal Co. v. Strine, 217 Ill. 516;
 Riverton Coal Co. v. Shepherd, 111 Ill. App. 294;
 Guthrie v. Empire Coal Co., 150 Ill. App. 530.

In an action for damages under the statute by a miner injured by reason of the operator's violation of the statute it is necessary to prove that the cause of the accident was wilful on the part of the mine operator, but it is not neces-

sary to allege or prove that the injured miner had exercised due care or was not guilty of contributory negligence.

Litchfield Coal Co. v. Taylor, 81 Ill. 590;
Kellyville Coal Co. v. Strine, 247 Ill. 516;
Bradley v. Chicago-Virden Coal Co., 231 Ill. 622, p. 627.

A mine operator can not excuse wilful failure on his part to furnish suitable props and cap pieces to a miner upon his request, to make his room safe as required by the statute, by saying that the miner was guilty of negligence that contributed to his injury and death.

Western Anthracite Coal & Coke Co. v. Beaver, 192 Ill. 333;
Wojtylak v. Kansas & Texas Coal Co., 188 Mo. 260, p. 297.

When a wilful neglect or omission to discharge a statutory duty on the part of a mine operator is alleged and proved, then contributory negligence on the part of the person injured in consequence of such neglect does not constitute a defense. This doctrine applies in a case where a miner knowing of the dangerous condition of the roof of the mine, took his seat under such dangerous point while sharpening a tool when there appeared to be no reason why he should have sat in that dangerous place.

Western Anthracite Coal & Coke Co. v. Beaver, 192 Ill. 333;
Western Anthracite Coal & Coke Co. v. Beaver, 192 Ill. 333;
See Carterville Coal Co. v. Abbott, 181 Ill. 495;
Odin Coal Co. v. Denman, 185 Ill. 413;
Kellyville Coal Co. v. Strine, 117 Ill. App. 115, p. 125.

The fact that the negligent want of exercise of due care on the part of a shot firer contributed to his injury, is not available to the operator in an action by the shot firer for damages for such injuries, where it appears that the cause of the injury was in the failure of the operator to comply with the statute in sprinkling or cleaning a dusty roadway.

Davis v. Illinois Collieries Co., 232 Ill. 284, p. 290;
Brennan v. Chicago & Carterville Coal Co., 241 Ill. 610, p. 618;
Houglund v. Avery Coal Min. Co., 246 Ill. 609, p. 616.

Where a mine examiner failed to properly mark the dangerous place in the roof and to indicate its condition in his record and failed to report its condition to the mine manager, and where a miner with knowledge of the defective condition of the roof proceeded to work in the room and was injured by a fall of rock from such dangerous place, the mine operator, in an action by the injured miner for damages can not be heard to say that the failure of the mine examiner to mark the dangerous place was not the proximate cause of the injury and that the act of the miner working in the dangerous place with knowledge of the danger was the proximate cause. If such a theory should prevail then the rule that the defense of contributory negligence can not be interposed in actions of this character would be rendered ineffective. The miner has the right to presume that the absence of the mark indicated an examination on the morning by the mine examiner and the opinion by him that the rock was not dangerous. If the examiner had placed the required mark upon the roof to indicate the danger, the miner would not have gone under the roof in the course of his work.

Mertens v. Southern Coal & Min. Co., 235 Ill. 540, p. 548;
Brunnworth v. Kerens-Donnewald Coal Co., 260 Ill. 202, p. 212.
See Wilson v. Danville Collieries Coal Co., 264 Ill. 143, p. 147;
Davis v. Missouri & Illinois Coal Co., 186 Ill. App. 478, p. 484;
Henrietta Coal Co. v. Martin, 221 Ill. 460, p. 468.

The fact that a coal miner on entering his working place in a mine discovered a dangerous place in the roof and proceeded with his work in picking down the coal, cannot be interposed as a defense in an action by the miner for damages

for injuries caused by the fall of rock from such dangerous place, as under the statute negligence by the injured miner is no defense to an action based upon the mine owner's wilful failure to carry out the provisions of the statute.

- Peebles v. O'Gara Coal Co.*, 239 Ill. 370, p. 373;
Waschow v. Kelly Coal Co., 245 Ill. 516, p. 521.
 See *Kellyville Coal Co. v. Strine*, 217 Ill. 576;
Henrietta Coal Co. v. Martin, 221 Ill. 460;
Eldorado Coal Co. v. Swan, 229 Ill. 586;
Davis v. Illinois Collieries Co., 232 Ill. 284;
Mertens v. Southern Coal Co., 235 Ill. 540;
Olson v. Kelly Coal Co., 236 Ill. 502;
Brunnworth v. Kerens-Donnewald Coal Co., 260 Ill. 202, p. 212.

The fact that a miner was attempting to ride in a car against the rules of a mine operator cannot be considered as a defense in an action for damages for the death of the miner caused by an alleged violation of the statute, on the theory that his contributory negligence is no defense in such actions.

- Wilkerson v. Willis Coal & Min. Co.*, 158 Ill. App. 620, p. 626.
 See *Kellyville Coal Co. v. Strine*, 217 Ill. 516.

In an action by a miner for injuries received while descending into the mine in a cage on the ground of the alleged violation of the statute by the mine operator in failing to have the cage properly covered, the mine operator cannot prevent a recovery on the ground that the injured miner violated the statute in putting in an empty car on the cage and taking picks with him, as this amounts only to contributory negligence on his part.

- Darling v. Wood*, 168 Ill. App. 272, p. 275.
 See *Illinois Collieries Coal Co. v. Davis*, 137 Ill. App. 15;
Merlo v. Johnston City & Big Muddy Coal & Min. Co., 173 Ill. App. 425, p. 430;
Swengel v. La Salle County Carbon Coal Co., 182 Ill. App. 623, p. 630.

The fact that a miner went to a dangerous place in the mine after being permitted to enter the mine with full knowledge of its dangers, against the direction of the superintendent and that in so doing he was guilty of contributory negligence, is no defense against a wilful violation of the statute by the mine operator in permitting the miner to enter the mine knowing that it was in a dangerous condition and without making such dangerous conditions safe.

- Merlo v. Johnston City & Big Muddy Coal & Iron Co.*, 173 Ill. App. 414, p. 430;
Kellyville Coal Co. v. Strine, 217 Ill. 516;
Peebles v. O'Gara Coal Co., 239 Ill. 370.

Where a miner discovered an overhanging piece of slate in the roof of his room and attempted to pull it down and finally stuck his pick into it with that intention and immediately a large piece of slate fell from the roof and injured him, it can not be said that this was the proximate cause of the injury sufficient to defeat the miner's action, as this would be permitting the contributory negligence of the miner to defeat the provisions of the statute, and is not sufficient to defeat a recovery in an action based upon the mine owner's wilful failure to obey the statute.

- Peebles v. O'Gara Coal Co.*, 239 Ill. 370, p. 373.
 See *Brunnworth v. Kerens-Donnewald Coal Co.*, 260 Ill. 202, p. 212.

The obligation resting upon a miner to exercise due care for his own safety and to obey the statute and not to disobey any order or rule of the mine operator made in pursuance of the statute, does not require him to act with the same deliberation and foresight which might be required of him under ordinary circumstances, where by reason of sickness he was compelled to leave his working place and while passing through an entry was, without his own fault and through the negligence of the operator, put in such apparent danger as to

cause him terror, loss of self-possession and bewilderment and as a natural consequence in attempting to escape put himself in a more dangerous position. Under such circumstances he is not, as a matter of law, charged with contributory negligence that will prevent him from recovering damages for injuries sustained.

Junction Min. Co. v. Ench, 111 Ill. App. 346, p. 349.

A miner or employee of a mine operator is not as a matter of law to be held guilty of contributory negligence where the conditions which occasioned his fright and caused him to jump were made by the negligent conduct or the wilful violation of the statute by the mine operator.

Loescher v. Consolidated Coal Co., 173 Ill. App. 526, p. 532.

See Wesley City Coal Co. v. Healer, 84 Ill. 126.

In an action for damages by a miner for injuries caused by a fall from the roof of his room due to the alleged failure of the mine operator to have the mine examined and to have the dangerous condition properly marked, the fact that the miner had actual notice and knowledge of the dangerous condition can not be interposed as a defense to prevent a recovery.

Davis v. Missouri & Illinois Coal Co., 186 Ill. App. 478, p. 485.

See Huchett v. Williamson County Coal Co., 188 Ill. App. 321, p. 323.

The miner who with knowledge of the dangerous condition of the roof of his working place continued to work for two days after a proper demand for props is not sufficient to charge him with contributory negligence or with assuming the risk.

Russell v. O'Gara Coal Co., 188 Ill. App. 328, p. 329.

See Huchett v. Williamson County Coal Co., 188 Ill. App. 321, p. 323.

In an action for the death of a driver caused by an alleged wilful violation of the statute it is not necessary or proper for a court in its instructions to give directions or make allusions to any want of care on the part of the deceased miner and to the hazard of the mining business, as these matters are not material in an action for a wilful violation of the statute.

Hamilton v. Spring Valley Coal Co., 149 Ill. App. 10, p. 20.

See Kellyville Coal Co. v. Strine, 217 Ill. 576;

Adams v. Kansas & Texas Coal Co., 85 Mo. App. 45.

In an action by a miner for damages caused by a wilful violation of the statute on the part of the mine operator it is not necessary for the complainant to aver or prove that he was in the exercise of due care.

Davis v. Missouri & Illinois Coal Co., 186 Ill. App. 478, p. 485.

In an action by a miner for damages for injuries under a common law count caused by the negligence of the mine operator, the complainant must aver and prove that he was in the exercise of due care and caution.

Davis v. Missouri & Illinois Coal Co., 186 Ill. App. 478, p. 485.

The cases where contributory negligence has been held not to bar a recovery are cases of assumed risk.

Donk Bros. Coal & Coke Co. v. Stroff, 100 Ill. App. 576, p. 581.

See Carterville Coal Co. v. Abbott, 181 Ill. 495.

Pawnee Coal Co. v. Royce, 184 Ill. 402;

Olin Coal Co. v. Denman, 185 Ill. 413.

The liability of a mine operator for injuries caused by the employing and retaining an incompetent engineer in violation of this act can not be affected or nullified on the ground of the contributory negligence of such incompetent engineer under the fellow servant doctrine.

Niantic Coal Min. Co. v. Leonard, 126 Ill. 216, p. 217;

Niantic Coal Min. Co. v. Leonard, 25 Ill. App. 95, p. 97.

See Franci v. Tazewell, 157 Ill. App. 477, p. 482.

77. CONTRIBUTORY NEGLIGENCE—MINER'S VIOLATION OF DUTY.

The violation of a duty imposed by statute upon a miner is recognized as supporting the defense of contributory negligence if it in fact contributed to the injury complained of.

Seghetti v. Berry Coal Co., 186 Ill. App. 263, p. 268.

A mine examiner injured by an explosion of gas while in a mine looking for an accumulation of gas, lack of air, loose roof, or other dangers that may exist, must know that he is likely to encounter an accumulation of gas at any time, and for him to proceed in such an examination with an open lamp is inexcusable carelessness, and the statute was not enacted for his protection.

Haveron v. Schoal Creek Coal Co., 184 Ill. App. 117, p. 122.

78. ASSUMPTION OF RISK—RISKS ASSUMED BY MINER.

A miner assumes the risks of danger and injuries from falling coal where in mining the coal he cuts under the seam and pulls the dirt and rock from under the coal, thereby permitting it to be squeezed down, causing the coal to fall and come down so it can be shoveled up and hauled out, and in such case the statute has no application.

Gliebas v. Spring Valley Coal Co., 159 Ill. App. 88, p. 89.

See *Shook v. Majestic Coal & Coke Co.*, 165 Ill. App. 586;

Mygatt v. Southern Coal & Min. Co., 180 Ill. App. 150, p. 161;

Yanloniz v. Spring Valley Coal Co., 185 Ill. App. 563, p. 565;

Owsianny v. Saline County Coal Co., 183 Ill. App. 518, p. 524.

In mining generally the miner cuts in under the seam of coal, pulling the dirt and rock from under the coal, so that it is "squeezed" down by the weight above, which causes it to fall, sometimes catching the miner. After the coal is removed the miner then removes from one-half foot to one foot of loose rock from the roof. As the work progresses the miner supports the roof as he goes along with props provided for that purpose. The vein at the working place is referred to as the face of the coal. A miner injured by a fall of coal under such circumstances can not recover in an action against the operator on the ground of an alleged violation of the statute in the failure of the operator to furnish props, as in such case the props would not only be useless to prevent the fall, but the purpose of the cutting under is to cause the coal to fall so that it can be taken out. Such an accident is one of the assumed risks and is not within the scope of the statute.

Gliebas v. Spring Valley Coal Co., 159 Ill. App. 88, p. 90.

See *Shook v. Majestic Coal & Coke Co.*, 165 Ill. App. 586;

Mygatt v. Southern Coal & Min. Co., 180 Ill. App. 150, p. 159;

McKissick v. O'Gara Coal Co., 186 Ill. App. 511, p. 512;

Yanloniz v. Spring Valley Coal Co., 185 Ill. App. 563, p. 565.

The conditions under which a miner may work at a dangerous place at his own risk are those where the mine operator has complied with the law by having the miner's working place examined, the dangerous place marked by the mine examiner, and the miner sent to such place by the direction of the mine manager to make safe the particular dangerous conditions there existing.

Arkley v. Niblack, 272 Ill. 356, p. 362.

Under the statute of Illinois requiring a mine operator to cause his mine to be inspected each evening at the close of the day's work it is the duty of the miner, where the roof of his working place becomes dangerous after such inspection,

to discover the danger and to protect himself from accident thereby; and a miner of 32 years' standing must be presumed to have appreciated the danger of a place in the roof which on testing sounded loose.

Madison Coal Corporation v. Stullken, 228 Federal 308, p. 311.

79. ASSUMPTION OF RISK—RISKS NOT ASSUMED BY MINERS.

The doctrine of assumption of risk does not apply and is no defense to an action against a mine owner where an injury results to a miner by reason of a willful violation of the statute.

Spring Valley Coal Co. v. Patting, 210 Ill. 342, p. 353;

Taylor Coal Co. v. Dawes, 122 Ill. App. 389, p. 395;

Franci v. Tazewell, 157 Ill. App. 477, p. 482.

In an action by a miner for damages for injuries occasioned by the willful violation of the statute on the part of the mine operator, the defense that the miner assumed the risk can not be interposed by the mine operator to defeat the action.

Peebles v. O'Gara Coal Co., 239 Ill. 270, p. 373;

Waschow v. Kelly Coal Co., 245 Ill. 516, p. 521.

The violation of the statute on the part of a mine operator by a failure to employ a licensed mine manager or pit boss renders the mine operator liable for an injury to a boss driver where such injury was the result of the failure to employ such mine manager. The boss driver by continuing in the employ of the mine operator after his knowledge of the failure of the mine operator to employ a mine manager did not thereby assume the risks of the violation of the statute.

Jupiter Coal Min. Co. v. Mercer, 84 Ill. App. 96, p. 102.

Where it is established that the proximate cause of an injury complained of was the failure of the mine operator to obey the statute, the policy of the police regulations contain in the miners' act does not require that either court or jury should indulge in refined distinctions as to assumed risks or contributory negligence on the part of the person injured.

Jupiter Coal Min. Co. v. Mercer, 84 Ill. App. 96, p. 102;

Bartlett Coal Co. v. Roach, 68 Ill. 174;

Litchfield Coal etc. Co. v. Taylor, 81 Ill. 590;

Catlett v. Young, 143 Ill. 74;

Illinois Fuel Company v. Parsons, 38 Ill. App. 182.

The common law doctrine that when an employee is warned or knows of the danger he assumes the risk or if he is guilty of contributory negligence he can not recover, can not be invoked as a defense under the statute. The fact that the deceased miner undertook to stop the cars by putting the dog into action after he had gained a place of safety is no defense in the case if a case is made under the statute.

Pate v. Gus Blair-Big Muddy Coal Co., 158 Ill. App. 578, p. 584.

A miner does not assume the risk of the negligence of employees of the same master who are not fellow-servants with him.

Illinois Third Vein Coal Co. v. Cioni, 215 Ill. 583, p. 589.

80. PROOF OF SIMILAR ACTS—ADMISSIBILITY.

Where it is necessary to prove the purpose intended, guilty knowledge, or any other state of mind to give to the mere act an actionable character, then proof

of other similar acts are admissible for the purpose of proving the state of mind necessary to give the particular act involved an actionable character.

Taylor Coal Co. v. Dawes, 220 Ill. 145;

Taylor Coal Co. v. Dawes, 122 Ill. App. 389, p. 396.

81. EXPERT EVIDENCE—ADMISSIBILITY—INSTANCES.

Expert testimony is not permissible ordinarily for the purpose of showing whether a condition was safe or dangerous, as that is the ultimate question to be determined by a jury; but where the character of the work or the conditions are such that it requires explanation of the means and methods of conducting the business or the exercise of precautions therefor, for the purpose of enlightening the jury upon questions pertaining to the operation of a mine, it is proper to permit the use of expert testimony to explain the conditions and circumstances.

Schultz v. Burnwell Coal Co., 180 Ill. App. 693, p. 697.

In an action for damages for the death of a miner it is competent to show by qualified experts in mining matters that the conditions and surroundings existing at the particular place and in reference to the alleged dangerous conditions were safe.

Hamilton v. Spring Valley Coal Co., 149 Ill. App. 10, p. 19.

See Donk Bros. Coal & Coke Co. v. Stroff, 200 Ill. 483;

Henrietta Coal Co. v. Campbell, 211 Ill. 216, p. 227;

Kellyville Coal Co. v. Strine, 217 Ill. 516;

Jacobs v. Madison Coal Corp., 165 Ill. App. 444, p. 448.

Brazil Block Coal Co. v. Hotel, 192 Fed. 108.

The opinion of an expert miner as to the effect of the firing of shots upon props and the conditions surrounding them is admissible in evidence in an action for damages by a miner where it was shown that shots were fired near the props.

Schultz v. Burnwell Coal Co., 180 Ill. App. 693, p. 697.

See Hamilton v. Spring Valley Coal Co., 149 Ill. App. 10;

Donk Bros. Coal & Coke Co. v. Stroff, 200 Ill. 483;

Henrietta Coal Co. v. Campbell, 211 Ill. 216;

Kellyville Coal Co. v. Strine, 217 Ill. 516.

Where a miner was injured while operating a new cutting machine in a mine and the equipment and character of the machine were in controversy it is proper to show by machine experts what constitutes a full equipment of such machine.

Morris v. O'Gara Coal Co., 181 Ill. App. 309, p. 317.

Expert witnesses may testify as to whether the use of bent and broken cross bars was a proper method of propping the roof of a mine or the proper method of cutting cross-cuts from one room to another; but it is not competent to ask expert witnesses whether or not a particular room in which a miner was at work was rendered a dangerous place in which to work because of the opening of a cross-cut. The question as to whether or not a room was rendered dangerous and unsafe in an action by a miner for damages for an injury, is a conclusion to be drawn by the jury from all the facts and circumstances proved in the case.

Hart v. Penwell Coal Min. Co., 146 Ill. App. 155, p. 158.

See Kellyville Coal Co. v. Strine, 217 Ill. 531;

LeGru v. Penwell Coal Co., 149 Ill. App. 555, p. 558;

Aetna v. Spring Valley Coal Co., 150 Ill. App. 497, p. 502.

Where in an action by a driver against a mine operator for damages for injuries occasioned by reason of a dangerous condition in the mine, and where witnesses with knowledge have testified as to the actual conditions in the mine at the place where the accident happened, it is not proper to prove by expert witnesses who have no knowledge of the actual conditions at the place of the

accident that the mine was completely and properly erected, constructed and operated.

Crooks v. Tazewell, 263 Ill. 343, p. 349.

In an action by a miner against a mine operator for damages for injuries caused by an explosion in a mine it is improper to permit a miner to testify that blown out shots were not uncommon occurrences in the mine.

Chicago, Virden Coal Co. v. Rucker, 116 Ill. App. 425, p. 426.

In an action by a miner for damages for injuries caused by an alleged violation of the statute by the mine operator in that a dangerous condition was not properly marked it is error to permit witnesses to testify that the neck of the room was safe or that it was unsafe.

LeGru v. Penwell Coal Co., 149 Ill. App. 555, p. 553.

See *Wullner v. Smith-Lohr*, 145 Ill. App. 456;

Hart v. Penwell Coal Co., 146 Ill. 155.

§2. QUESTIONS OF FACT—INSTANCES.

The question of the condition of a mine or an entry at the place where an accident occurred and where a miner was injured is one of fact to be determined by the jury and not by the mine examiner.

Olson v. Kelly Coal Co., 236 Ill. 502;

Aetitus v. Spring Valley Coal Co., 246 Ill. 32;

Aetitus v. Spring Valley Coal Co., 150 Ill. App. 497, p. 503;

Piazzi v. Kerens-Donnewald Coal Co., 179 Ill. App. 540, p. 544.

Whether or not a place in which a miner was injured was dangerous and whether or not the mine operator wilfully failed to comply with the statute are questions of fact for a jury in an action by the miner for injuries received.

Aetitus v. Spring Valley Coal Co., 246 Ill. 232;

Smith v. Illinois Collieries Co., 155 Ill. App. 148.

Whether or not a miner at the time of an injury complained of was engaged in the work of making a dangerous place safe under the direction of the mine manager or was only employed and directed to clean up an entry or cross cut, are questions of fact to be determined by a jury on the trial of the action.

Piazzi v. Kerens-Donnewald Coal Co., 179 Ill. App. 540, p. 544.

In an action by a miner for damages for injuries caused by being thrown from a motor due to the alleged defective condition of the track, it is a question of fact for the jury to determine whether the motor was thrown from the track and the complainant injured by reason of the defective condition of the track, or whether the motor was thrown from the track because of the negligence of a fellow servant in failing to attend the switch.

Keller v. Chicago-Wilmington-Vermilion Coal Co., 184 Ill. App. 248, p. 253.

The question of the failure of a mine operator to furnish props and to have the roof examined and marked as required by the statute is one of fact to be determined by the jury.

Hollow v. Wasson Coal Co., 186 Ill. App. 512, p. 513;

Mattingly v. O'Gara Coal Co., 186 Ill. App. 591, p. 592;

Price v. Clover Leaf Coal Min. Co., 188 Ill. App. 27, p. 31;

Salerno v. Missouri & Illinois Coal Co., 188 Ill. App. 343, p. 344.

See *Kennedy v. Chicago & Carterville Coal Co.*, 188 Ill. App. 355, p. 356.

In an action for damages for the death of a miner, an instruction substantially in the language of the statute in regard to the duty of the mine owner to furnish props and of the deceased miner to secure his place for his own safety and in regard to the duties of the mine examiner, and which are applicable to the case as made by the evidence, was correctly given.

Arkley v. Niblack, 272 Ill. 356, p. 359.

In an action by a miner for damages for injuries caused by a fall from the roof on the ground of the alleged failure of the mine operator to furnish props and timbers the question as to whether the timbers furnished by the operator were of suitable dimensions and size to be used as cross-bars at the place where they were needed, and as to whether the miner and his helper could have set the timber up, because of its size, were questions of fact to be submitted to and determined by the jury.

Harmening v. Henrietta Coal Co., 149 Ill. App. 387, p. 389.

Whether the willful failure of a mine operator to comply with the provisions of the statute was or was not the proximate cause of the injuries or death of a miner, complained of, is a question of fact for the jury to determine in an action for damages for such injuries or death.

Olson v. Kelly Coal Co., 236 Ill. 502;

Brunnworth v. Kerens-Donnewald Coal Co., 260 Ill. 202, p. 215;

Waschow v. Kelly Coal Co., 151 Ill. App. 41, p. 44;

Stanhaus v. Paradise Coal & Coke Co., 169 Ill. App. 75, p. 81.

Davis v. Missouri & Illinois Coal Co., 186 Ill. App. 478, p. 485;

Marraige v. Electric Coal Co., 188 Ill. App. 142, p. 144.

See *Kellyville Coal Co. v. Strine*, 217 Ill. 516;

Athens Min. Co. v. Carnduff, 221 Ill. 354;

Cook v. Big Muddy-Carterville Min. Co., 249 Ill. 41;

Brunnworth v. Kerens-Donnewald Coal Co., 169 Ill. App. 58.

Whether the willful failure of a mine operator to comply with the provisions proximate cause of an injury to the miner is a question of fact for the jury to determine in an action for damages for such injury.

Arkley v. Niblack, 272 Ill. 356, p. 362.

In an action for damages by a miner for the alleged failure of the mine operator to comply with the statute in preparing refuge places in a hauling road it is a question of fact to be determined by the jury on the trial of the case whether the alleged failure of the operator to make refuge places was the proximate cause of the injury complained of.

Loftus v. Illinois Midland Coal Co., 181 Ill. App. 197, p. 201;

Loftus v. Illinois Midland Coal Co., 193 Ill. App. 454, p. 456.

In an action by a miner for damages for injuries sustained by reason of the alleged willful violation of the statute on the part of the mine operator, it must be made to appear that the violation of the Statute complained of was the proximate cause of the injury, and this is a question of fact for the jury.

Haywood v. Derling Coal Co., 145 Ill. App. 506, p. 512;

Hickey v. Springfield Coal Min. Co., 149 Ill. App. 453, p. 456.

Proximate cause is probable cause and remote is improbable cause; and applying this rule to the size of a space for spragging and the work to be performed and the manner of its performance, the question as to whether the alleged violation of the statute in maintaining a dangerous place in an entry was the proximate cause of an injury complained of was a question of fact for the jury.

Eaton v. Marion County Coal Co., 173 Ill. App. 444, p. 448;

Jenkins v. La Salle County Carbon Coal Co., 182 Ill. App. 36, p. 38.

What is the proximate cause of an injury is ordinarily a question of fact to be determined by a jury; but it can arise as a question of law when the undisputed facts are such that there can be no difference in the judgment of reasonable men as to the inferences to be drawn therefrom.

Hallberg v. Citizen's Coal Min. Co., 149 Ill. App. 412, p. 415;

Oderizzi v. Southern Coal Mining Co., 151 Ill. App. 393, p. 395.

Whether the failure of a mine manager to place a conspicuous mark on the roof alleged to be dangerous and a fall from which caused the injury complained of, was the proximate cause of such injury, is a question of fact to be determined by a jury in the trial of the case.

Wilson v. Danville Collieries Coal Co., 264 Ill. 143, p. 146;

Smith v. Illinois Collieries Co., 155 Ill. App. 148, p. 151;

Gibson v. Wasson Coal Co., 190 Ill. App. 599, p. 601.

See Waschow v. Kelly Coal Co., 245 Ill. 516;

Piazzì v. Kerens-Donnewald Coal Co., 262 Ill. 30.

The question as to whether or not a shot wrongfully or unlawfully fired by a shot firer was the proximate cause of an injury resulting to such shot firer or whether the injury resulted from the operator's violation of the statute, are questions of fact to be determined by the jury in an action for damages for the injuries complained of.

Tomasi v. Donk Bros. Coal Co., 257 Ill. 70, p. 73.

See Henrietta Coal Co. v. Martin, 221 Ill. 460;

Mertens v. Southern Coal Co., 235 Ill. 540;

Davis v. Illinois Collieries Co., 232 Ill. 284;

Tomasi v. Donk Bros. Coal & Coke Co., 169 Ill. App. 47, p. 50.

Whether the death of a miner resulted from a willful failure of the mine owner to comply with the statute requiring inspection and posting of warning signs, and the exclusion of miners from dangerous gaseous places, and whether a miner was rightfully at the place at the time the injury occurred, are questions that are proper to submit to a jury in an action for damages for the death of a miner caused by the alleged negligence of the operator in failing to place warning signs.

Romani v. Shoal Creek Coal Co., 271 Ill. 360, p. 367.

53. DAMAGES—SINGLE RECOVERY.

All damages recoverable under the statute for the death of a miner must necessarily be recovered in a single action.

Willis Coal & Min. Co. v. Grizzell, 100 Ill. App. 480, p. 486;

Consolidated Coal Co. v. Donbrowski, 106 Ill. App. 641, p. 642;

Brennan v. Chicago & Carterville Coal Co., 147 Ill. App. 263, p. 271.

See Beard v. Skeldon, 13 Ill. App. 54.

An action brought by the father and mother for the death of a son, a coal miner, is for the entire recovery of damages and the right to control the prosecution and disposition of the case and a compromise and settlement by them is a release of the cause of action, and a second suit can not be begun under the general injuries act by the father as administrator to recover damages for the same injuries in favor of the heirs of the deceased miner. The fact that a suit may be brought under the general injuries act or under the mines and miners' act does not affect the question whether the same damages may be recovered twice.

McFadden v. St. Paul Coal Co., 263 Ill. 441, p. 443.

The statute provides that for an injury occasioned a right of action shall accrue for any direct damages sustained; and the word "direct" does not pertain to the cause of the injury, but to the effect of it.

Kellyville Coal Co. v. Strine, 117 Ill. App. 115, p. 124.

See Coal Run Coal Co. v. Jones, 127 Ill. 379;

Illinois Fuel Co. v. Parsons, 38 Ill. App. 182;

Missouri & Illinois Coal Co. v. Schwalb, 77 Ill. App. 593.

In an action by a father and mother or other lineal heirs for damages for the death of a son, the damages are not limited to the pecuniary loss of the

plaintiff, but the pecuniary loss to all beneficiaries named in the act is proper in considering the measure of damages.

McFadden v. St. Paul Coal Co., 183 Ill. App. 36, p. 40.

See Cook v. Big Muddy-Carterville Min. Co., 249 Ill. 41.

In order to entitle a miner to recover for mental suffering as an element of damages in an action for personal injuries, there must be a suitable averment of the fact of mental suffering in the declaration; but it is sufficient to aver, after a description of the injuries, that the plaintiff "has suffered and will suffer much pain and anguish on account of said injuries."

Tomasi v. Donk Bros. Coal & Coke Co., 169 Ill. App. 47, p. 50.

See Tomasi v. Donk Bros. Coal & Coke Co., 257 Ill. App. 70, p. 73.

The damages to be recovered in an action by a miner against a mine operator for injuries must be the actual and proximate consequence of the wrongful act complained of.

French v. Clover Leaf Coal Min. Co., 190 Ill. App. 400, p. 403.

The damages provided in an action under this statute are classed by the legislature with other liabilities for violations of a statute, under the generic terms of penalties; and no conduct of an injured or deceased miner short of willfully seeking the injury or death complained of can bar a recovery where it appears that a coal mine operator's willful conduct brought about the injury or death.

Kellyville Coal Co. v. Strine, 117 Ill. App. 115, p. 125.

See Donk Bros. Coal & Coke Co. v. Stroff, 200 Ill. 483;

Donk Bros. Coal & Coke Co. v. Stroff, 100 Ill. App. 582;

Brennan v. Chicago & Carterville Coal Co., 147 Ill. App. 263, p. 271.

Section 33 of the act of 1899 authorizes an action for the wrongful death of a person in a mine caused by the willful violation of the statute, by the widow of the deceased, the lineal heirs or adopted children, or any other dependent person. But there can not be one recovery under the mines act and another recovery under the general statute authorizing action for wrongful death where the beneficiaries in the separate actions are the same.

McFadden v. St. Paul Coal Co., 183 Ill. App. 36, p. 39.

MINING RIGHTS—CONVEYANCE.

SALE OR LEASE OF MINING RIGHTS.

LAWS 1861, P. 146.

FEBRUARY 20, 1861.

AN ACT to encourage Mining in the State of Illinois.

SECTION 1. Be it enacted, etc.: That the owner of any land may reserve, sell and convey, or lease mining rights, or the right to dig for and obtain iron, lead, copper, coal or other minerals from such land; and thereafter the sale for taxes of the land in which any mining right has been so conveyed or leased shall not operate to transfer or in any manner affect such mining right.

SEC. 2. Mining rights may be conveyed by deed or transferred by lease, and such deeds and leases may be acknowledged and recorded in the same manner as is now provided by law for the acknowledgment and record of deeds, and with like effect.

SEC. 3. This act shall take effect and be in force from and after its passage.

CODIFIED IN REVISED STATUTES, 1874.

REVISED STATUTES (HURD), 1874, P. 709.

MARCH 24, 1874.

AN ACT to revise the law in relation to mines.

* * * * *

SEC. 6. CONVEYANCE OF MINING RIGHT.—Any mining right, or the right to dig for or obtain iron, lead, copper, coal, or other mineral from land, may be conveyed by deed or lease, which may be acknowledged and recorded in the same manner and with like effect as deeds and leases of real estate.

SEC. 7. EFFECT OF CONVEYANCE.—When the owner of any land shall convey, by deed or lease, any mining right therein, such conveyance shall be considered as so separating such right from the land that the same shall be taxable separately, and any sale of the land for any tax or assessment shall not include or affect such mining right.

ANNOTATIONS.

1. MINING RIGHTS—CONVEYANCE OR LEASE.

2. MINING RIGHTS—TAXATION.

1. MINING RIGHTS—CONVEYANCE OR LEASE.

A mining right may properly be deemed a right to excavate in the earth for the purpose of obtaining minerals or other useful products.

People v. Bell, 237 Ill. 332, p. 337.

The statute provides that "any mining right" may be conveyed by lease, and also provides that when such mining right has been conveyed it shall be considered as so separated from the land that it is taxable separately.

People v. Bell, 237 Ill. 332, p. 336.

Under the act of 1861 a conveyance by the owner of land, by deed or lease of any mining right in such land, is a separation of such mining right from the land and the mining right shall be taxed separately.

Major, In re, 134 Ill. 19, p. 22;

Consolidated Coal Co. v. Baker, 135 Ill. 545, p. 551;

Simmons Coal Co. v. Board, etc., — Ill. ——— 118 N. E. 753.

The severance of the mineral from the remainder of the land may be accomplished not only by a conveyance of the mineral by the owner of the fee, but by a conveyance of the estate in the surface with a reservation of the mineral or ore beneath the surface to the grantor. An estate in fee in the mineral or ores beneath the surface may be vested in one person and an estate in fee in the surface of the land in another.

Major, *In re*, 134 Ill. 19, p. 22;

Sholl Bros. v. People, 194 Ill. 24, p. 26;

See Catlin Coal Co. v. Lloyd, 176 Ill. 275;

Maplewood Coal Co. *In re*, 213 Ill. 283, p. 285.

2. MINING RIGHTS—TAXATION.

When a grant is made of the land by the owner with a reservation of the mining right to the grantor, there is a separation of the rights of the property as between the land and the mining rights for the purpose of taxation.

Major, *In re*, 134 Ill. 19, p. 22;

Consolidated Coal Co., v. Baker, 135 Ill. 545, p. 551.

The conveyance of minerals beneath the surface of a reservation of the minerals with the right to mine in a deed conveying the surface is denominated a "mining right"; but a "mining right" is not a mere easement in the land and for that reason can not under the statute, be claimed as exempt from taxation.

Sholl v. People, 194 Ill. 24, p. 26;

Maplewood Coal Co., *In re*, 213 Ill. 283, p. 285.

Where a severance has been affected of the surface and the minerals beneath the surface, the two estates should be assessed separately for taxation. The assessment of the land by its governmental description should be assessed in the name of the owner of the surface, and the minerals should be assessed as a "mining right" in the name of the owner of the mineral, as the estate in the minerals is denominated "mining right" by the statute. Where the estate in the minerals has been created by a reservation in a deed conveying the surface, this would not be inappropriately called a "mining right reservation."

Sholl v. People, 194 Ill. 24, p. 27;

Maplewood Coal Co., *In re*, 213 Ill. 283, p. 285.

In making the valuation of lands on which there is coal or other mine or stone or other quarry, it necessarily requires a valuation of the mine or quarry, and if there is no division of ownership it will all properly be assessed with the fee, but if there has been a separation in ownership of the surface of the land and the mine or minerals, there may be a separate assessment for the purpose of taxation. The statute requires the assessment to be made in the names of the persons or corporations holding such property interest in the land, and while the total assessment must equal the value of the land augmented by the value of the coal in the land the assessment of each should be made separately according to the several holdings to the end that each shall pay a tax in proportion to the value of the property owned.

Consolidated Coal Co. v. Baker, 135 Ill. 545, p. 551.

A sale and conveyance of land by the owner with a reservation of all the coal therein and the right to mine the same is a separation of the surface and mineral rights for the purpose of taxation, and it cannot be urged on appeal from the decision of the Board of Supervisors on refusing to abate the taxes on the mining rights that there was no coal mine open or in operation upon the land and there was no evidence that coal existed in the land. If the surface

and mineral rights were separated it was sufficient under the statute for taxing purposes, but the charge that the taxes assessed were excessive cannot obtain upon such an appeal, for it was the duty of the assessor if the mining right was property to return an assessment thereof, and if it was valued too high another and a different mode is appointed out for redress. In such an appeal no question can be made as to the regularity of the assessment.

Major, *In re*, 134 Ill. 19, p. 22;

Consolidated Coal Co. v. Baker, 135 Ill. 545, p. 551.

A lease granting to the lessee all the oil and gas in and under the described premises, with the exclusive right to enter thereon at all times for the purpose of drilling and operating for oil, gas or water, and to erect all buildings and structures, machinery and appliances and lay all pipes necessary for the production, storage and transportation of oil, gas or water upon and from the premises, conveys such a mining right in the land that it can properly be taxed separately, and as it involves a freehold it should be assessed as real property.

People v. Bell, 237 Ill. 332, p. 336.

See Major, *In re*, 134 Ill. 19;

Consolidated Coal Co. v. Baker, 135 Ill. 545;

Sholl v. People, 194 Ill. 24;

Maplewood Coal Co., *In re*, 213 Ill. 283;

Kansas Natural Gas Co. v. Board of Commerce, 75 Kan. 335;

Jones v. Wood, 9 Circ. Ct. 560;

Kitchen v. Smith, 101 Pa. St. 452;

State v. South Pennsylvania Ore Co., 42 W. Va. 80.

Where land containing minerals was assessed for taxes at its full value in 1903 and the mining or coal rights were subsequently purchased by a third person, such mining or coal rights may be assessed for taxation against the purchaser, and the taxing officers are not compelled to wait the next quadrennial assessment, and the owner of the coal or mining rights is liable for the taxes thereon without reference to the assessed value of the land.

People v. O'Gara Coal Co., 231 Ill. 172, p. 174;

Maplewood Coal Co. *In re*, 213 Ill. 283, p. 286.

When as a matter of fact property is assessed to the original proprietor including the land and the mining rights, which belong to the same owner, it is the fault of the owner. He has his remedy and if he does not elect to avail himself of it but permits an excessive assessment to the extent that his mining rights depreciated the value of the land, he alone can make complaint.

People v. O'Gara Coal Co., 231 Ill. 172, p. 174.

See Maplewood Coal Co., *In re*, 213 Ill. 283.

The mere exhibition of the tax collectors' books showing payment of the taxes assessed upon the surface of the land by the owner thereof, is not sufficient to acquit the owner of the minerals of his duty and obligation to pay the taxes on the "mining right" owned by him in the same tract.

Sholl v. People, 194 Ill. 24, p. 27;

Maplewood Coal Co. *In re*, 213 Ill. 283, p. 285.

OIL AND OIL WELLS.

OIL—INSPECTION.

LAWS 1869, P. 259.

APRIL 19, 1869.

AN ACT to provide for the inspection and sale of mineral oils used for illuminating purposes.

SECTION 1. Be it enacted, etc.: That the mayor and aldermen of any city, or the board of trustees of any town, wherein any coal, petroleum or other mineral oils are made, refined, produced or sold for illuminating purposes, and where five or more inhabitants petition for the same, shall appoint, annually, one or more suitable persons, not interested in the manufacture or sale of said oils, as inspectors thereof, and shall fix their compensation, to be paid by the parties requiring the services of said inspectors.

SEC. 2. Every inspector, before entering upon the duties of his office, shall be duly sworn. He shall also execute a bond to the state of Illinois, in such sum and with such surety as shall be approved by the probate court of the county where appointed, conditioned for the faithful performance of the duties imposed on him by this act, which bond shall be for the use of all parties or persons aggrieved by the acts or neglect of such inspector. And when called upon by any manufacturer, refiner, producer, dealer or purchaser of such oils, or by any officer mentioned in section five of this act, to test such oils, the said inspector shall do so, with all reasonable dispatch, by applying the fire test, as indicated and determined by J. Tagliabue's pyrometer, or some other instrument equally as accurate, with which he shall have provided himself at his own expense; and if the oils so tested will not ignite or explode at a temperature less than one hundred and ten degrees Fahrenheit, the inspector shall mark, plainly and indelibly, on each cask, barrel, or package, "approved, fire test being ——," but if said oils will ignite at a temperature less than one hundred and ten degrees Fahrenheit, as aforesaid, then the inspector shall mark on each cask, barrel or package, "condemned for illuminating purposes—fire test being ——." Said inspector, while in office, shall not buy, sell, bargain or trade, directly or indirectly, in any of the said oils. He may appoint deputies, for whom he shall be responsible, and who shall perform the duties of inspector. He shall keep an intelligible record of each inspection made, within twenty-four hours thereafter, in a book prepared for the purpose, which shall be opened to all parties interested. Any inspector found guilty of fraud, deceit or culpable negligence in the performance of any of his duties as prescribed in this section of this act, shall be punished by a fine not exceeding one hundred dollars, or imprisonment in the county jail not exceeding one month, or both, in the discretion of the court.

SEC. 3. Any manufacturer, refiner, producer or dealer who shall neglect to give notice to said inspector of any such oil in his or her possession, not already inspected by any duly authorized inspector of the state of Illinois, within two days after the same shall have been made, refined, procured or purchased, shall be liable to the same penalties provided in the second section of this act against inspectors.

SEC. 4. Any person, whether manufacturer, refiner, producer or dealer, who shall sell or attempt to sell to any person in this state any of said oils for illuminating purposes whether manufactured, refined or produced in this state or not,

which shall be below the "approved" standard—that is, having an igniting point less than one hundred and ten degrees Fahrenheit—as indicated and determined in the manner described in the second section of this act, or before having the same inspected as herein provided; or if any manufacturer, refiner, producer, dealer or inspector of said oils shall falsely brand the package, cask or barrel containing the same, as provided in the second section of this act, or shall use barrels, packages or casks having the inspector's brand thereon, and the oil therein not having been inspected, he or they so offending, upon conviction thereof, shall be liable to the same penalties provided in the second section of this act against inspectors. The casks, barrels or packages containing the same shall be forfeited and sold—one-half of the proceeds of such sale to go to the school fund of the county, and the other half to the informer—and, further, shall be liable to any person or persons for all damages sustained by him or them by the explosion or ignition of such oil thus unlawfully kept and sold.

SEC. 5. The mayor, aldermen and police of any city, and the board of trustees of any town in which an inspector is appointed in conformity with the first section of this act, or any one of said officers, within his respective city or town, shall cause all persons violating any of the provisions of this act to be prosecuted therefor.

SEC. 6. All prosecutions for fines and penalties, under the provisions of this act, shall be by action of debt or indictment in any court of competent jurisdiction, and the fines so collected shall be paid one-half to the informer and one-half into the school fund of the county wherein the same shall be collected.

SEC. 7. This Act shall be deemed a public act, and shall take effect and be in force from and after its passage. (Repealed.)

INSPECTION OF OIL.

LAWS 1871-72, P. 566.

APRIL 9, 1872.

AN ACT to provide for the Inspection and Sale of Mineral Oils and Fluids the product of Petroleum used for illuminating purposes.

SECTION 1. Be it enacted, etc.: That the mayor and aldermen of any city, or the board of trustees of any (town) wherein any coal, naphtha, gasoline, benzine or other mineral oils or fluids, the product of petroleum, are made, refined, produced or sold for illuminating purposes, and where five or more inhabitants petition for the same, shall appoint annually one or more suitable persons, not interested in the manufacture or sale of said oils or fluids, as inspectors thereof, and shall fix the compensation, to be paid by the parties requiring the services of said inspectors.

SEC. 2. Every inspector, before entering upon the duties of his office, shall be duly sworn. He shall also execute a bond to the state of Illinois, in such sum and with such security as shall be approved by the probate court of the county where appointed, conditioned for the faithful performance of the duties imposed on him by this act, which bond shall be for the use of all parties or persons aggrieved by the acts or neglect of such inspector, and when called upon by any manufacturer, refiner, producer, dealer or purchaser of such oils or fluids, or by any officer mentioned in section 5 of this act, to test such oils or fluids, the said inspector shall do so with all reasonable dispatch, by applying the fire test as indicated and determined by J. Tagliabue's pyrometer, or some other instrument equally as accurate, with which he shall have provided himself at his own expense, and if the oils or fluids so tested will not ignite or explode at a temperature less than one hundred and ten degrees, Fahrenheit, the inspector shall mark, plainly and indelibly, on each cask, barrel, or package "approved, fire

test being ——," but if said oils or fluids will ignite at a temperature less than one hundred and ten degrees, Fahrenheit, as aforesaid, then the inspector shall mark on each cask, barrel or package, "Condemned for illuminating purposes—fire test being ——." Said inspector, while in office, shall not buy, sell, bargain or trade, directly or indirectly, in any of the said oils or fluids. He may appoint deputies, for whom he shall be responsible and who shall perform the duties of inspector. He shall keep an intelligible record of each inspection made, within twenty-four hours thereafter, in a book prepared for the purpose, which shall be opened to all parties interested. Any inspector found guilty of fraud, deceit or culpable negligence in the performance of any of his duties as prescribed in this section of this act, shall be punished by fine not exceeding one hundred dollars or imprisonment in the county jail not exceeding one month, or both, in the discretion of the court.

SEC. 3. Any manufacturer, refiner, producer, or dealer, who shall neglect to give notice to said inspector of any such oil or fluid in his or her possession not already inspected by any duly authorized inspector of the state of Illinois, within two days after the same shall have been made, refined, purchased or produced, shall be liable to the same penalties provided in section 7 of this act against inspectors.

SEC. 4. Any person, whether manufacturer, refiner, producer or dealer, who shall sell or attempt to sell to any person in this state any of said oils or fluids for illuminating purposes, whether manufactured, refined or produced in this state or not, which shall be below the "approved" standard—that is, having igniting point less than one hundred and ten degrees, Fahrenheit—as indicated and determined in the manner described in the second section of this act, or before having the same inspected as herein provided, or if any manufacturer, refiner, producer, dealer or inspector of said oils or fluids shall falsely brand the package, cask or barrel containing the same, as provided in the second section of this act, or shall use barrels, packages or casks having the inspector's brand thereon, and the oil or fluid therein not having been inspected, he or they so offending, upon conviction thereof, shall be liable to the same penalties provided in the second section of this act against inspectors. The casks, barrels, or packages containing the same shall be forfeited and sold, one-half of the proceeds of such sale to go to the school fund of the county and the other half to the informer—and further, shall be liable to any person or persons for all damages sustained by him or them by the explosion or ignition of such oil or fluid thus unlawfully kept and sold.

SEC. 5. The mayor, aldermen and police of any city and the board of trustees of any town in which an inspector is appointed in conformity with the first section of this act, or any one of said officers within his respective city or town, shall cause all persons violating any of the provisions of this act to be prosecuted therefor.

SEC. 6. All prosecutions for fines and penalties, under the provisions of this act, shall be by action of debt or indictment in any court of competent jurisdiction, and the fines so collected shall be paid one-half into the school fund of the county wherein the same shall be collected.

SEC. 7. That "An act to provide for the inspection and sale of mineral oils used for illuminating purposes," approved April 19, 1869, be and the same is hereby repealed.

SEC. 8. Whereas an emergency exists, by reason of there being no sufficient law on this subject, requiring this law to take effect before July 1, 1872; therefore this act shall take effect from and after its passage.

INSPECTORS AND INSPECTION.

REVISED STATUTES 1874, P. 731.

MARCH 12, 1874.

AN ACT to revise the law in relation to oil inspection.

SECTION 1. APPOINTMENT OF INSPECTORS—TERM OF OFFICE—DEPUTIES.—Be it enacted, etc: That the mayor of any city, with the approval of the city council, and the board of trustees of any village or town may, and on the petition of any five inhabitants thereof shall appoint one or more inspectors for the inspection of coal oil, naphtha, gasoline, benzine and other mineral oils or fluids, the product of petroleum, and fix their compensation, to be paid by the party requiring their services. Every such inspector shall hold his office for one year and until his successor is appointed and qualified, unless sooner removed from office. He may appoint deputies, for whom he shall be responsible, and who shall take the same oath and be liable to the same penalties as the inspector. (Amended.)

SEC. 2. OATH—BOND—SUIT ON.—Every such inspector, before entering upon the duties of his office, shall take and subscribe the following oath:

I do solemnly swear (or affirm, as the case may be), that I will support the constitution of the United States, and the constitution of the state of Illinois, and that I will faithfully discharge the duties of the office of oil inspector, according to the best of my ability.

He shall also execute a bond payable to the People of the State, in such sum as shall be required by the city council or board of trustees, with one or more sureties, to be approved by the mayor or president of the board of trustees, conditions for the faithful discharge of the duties of his office. Any person aggrieved by his misconduct or neglect of such inspector may maintain suit thereon for his own use. (Amended.)

SEC. 3. INSPECTOR TO TEST.—Upon the application of any manufacturer, refiner or producer of, or any dealer in, any such oil or fluid, or of any officer or person to test any such oil or fluid, such inspector shall test the same with all reasonable dispatch by applying the fire test, as indicated and determined by J. Tagliabue's pyrometer or some other instrument or means equally accurate, with which he shall have provided himself at his own expense.

SEC. 4. TEST—CASKS MARKED—INSPECTOR NOT TO TRADE IN OIL.—If the oils or fluids so tested will not ignite or explode at a temperature less than one hundred and fifty degrees Fahrenheit, the inspector shall mark, plainly and indelibly, on each cask, barrel or package "Approved, fire test being ———;" but if said oils or fluids will ignite at a temperature less than one hundred and fifty degrees Fahrenheit, as aforesaid, then the inspector shall mark on each cask, barrel or package "Condemned for illuminating purposes; fire-test being ———." Said inspector, while in office, shall not buy, sell, bargain or trade, directly or indirectly, in any of the said oils or fluids.

SEC. 5. RECORD KEPT AND OPEN TO EXAMINATION.—He shall also, within twenty-four hours after making any inspection, make a full and fair entry thereof in a record book to be kept for that purpose; which shall be open to all persons wishing to examine the same.

SEC. 6. PENALTY FOR MISCONDUCT IN OFFICE.—Any such inspector or deputy who shall falsely brand any package, cask or barrel, or be guilty of any fraud, deceit, misconduct or culpable negligence in the performance of any of his official duties, shall be fined not exceeding \$200, and be liable to the party injured for all damages occasioned thereby.

SEC. 7. PENALTY FOR NEGLECT TO GIVE NOTICE OF, OR SELLING OIL NOT INSPECTED—COUNTERFEIT BRANDS, ETC.—Any manufacturer, refiner or producer of, or any dealer in coal oil, naphtha, gasoline, benzine, or other mineral oil or

fluid, the product of petroleum, in any city, village or town in which such inspector is appointed, who shall neglect to give notice to such inspector, of any such oil or fluid in his possession not already inspected by some authorized inspector of this State, within two days after the same is made or refined by him or received into his possession, or shall offer any such oil or fluid for sale before the same has been so inspected, or shall sell or attempt to sell to any person, for illuminating purposes, any such oil which is below the approved standard—that is, having igniting point less than one hundred and fifty degrees Fahrenheit, as indicated and determined in the manner herein provided, or shall use any package, cask, barrel, or other thing having the inspection brand thereon, the oil or fluid therein not having been inspected, or shall counterfeit any brand, shall be fined not exceeding \$200 and be liable to the party injured for all damages occasioned thereby, and all the casks, barrels or packages so falsely used, and their contents, shall be forfeited and may be seized and sold.

SEC. 8. FINES, HOW RECOVERED AND DISPOSED OF.—The fines herein provided may be recovered in the name of the People of the State of Illinois, before any justice of the peace of the country where the offense is committed, and when collected, one-half shall be paid to the informer, and the other half and the proceeds of the sale of all casks, barrels and packages, and the contents thereof seized, as herein provided, shall be paid into the city village or town treasury. Repealed by Act of June 29, 1915, (Laws 1915, p. 533.) See page 352.

FIRST AMENDATORY ACT.

LAWS 1887, P. 242.

JUNE 17, 1887.

AN ACT to amend section 1 and section 2 of an act entitled "An act to revise the law in relation to oil inspection," approved March 12, 1874, in force July 1, 1874.

SECTION 1. Be it enacted, etc.: That sections 1 and 2 of an act entitled "An act to revise the law in relation to oil inspection," approved March 12, 1874, in force July 1, 1874, be and the same are amended so as to read as follows:

SECTION 1. The judge of the county court of any county for townships outside of incorporated cities, towns and villages, the mayor of any city, with the approval of the city council, and the board of trustees of any village or town may, and on the petition of any five inhabitants thereof shall, appoint one or more inspectors for the inspection of coal oil, naphtha, gasoline, benzine and other mineral oils or fluids, the product of petroleum, and fix their compensation, to be paid by the party requiring their services. Every such inspector shall hold his office for one year and until his successor is appointed and qualified, unless sooner removed from office. He may appoint deputies, for whom he shall be responsible, and who shall take the same oath and be liable to the same penalties as the inspector.

SEC. 2. Every such inspector before entering upon the duties of his office shall take and subscribe the following oath:

I do solemnly swear (or affirm as the case may be), that I will support the Constitution of the United States, and the constitution of the State of Illinois, and that I will faithfully discharge the duties of the office of oil inspector according to the best of my ability.

He shall also execute a bond payable to the People of the State, in such sum as shall be required by the county judge, city council or board of trustees, with one or more sureties to be approved by the county judge, mayor, or president of the board of trustees, conditioned for the faithful discharge of the duties of his office. Any person aggrieved by the misconduct or neglect of such inspector may maintain (an action) thereon for his own use.

OIL INSPECTION—SECOND AMENDATORY ACT.

LAWS 1911, P. 432.

MAY 29, 1911.

AN ACT to amend sections 1 and 2 of an Act entitled, "An Act, etc. (same as in section 1).

SECTION 1. Be it enacted, etc.: That sections 1 and 2 of an Act entitled, "An Act to revise the law in relation to oil inspection," approved March 12, 1874, as amended by an Act approved June 17, 1887, be and the same are hereby amended to read as follows:

SEC. 1. The mayor of any city, with the approval of the city council, the president of the board of trustees of any village or incorporated town, with the approval of such board of trustees, may, and on the petition of any five inhabitants thereof shall, appoint one or more inspectors for the inspection of coal oil, petroleum, naphtha, gasoline, benzine and other mineral oils or fluids, fix the compensation of such inspectors and prescribe the fees to be paid by those for whom such inspectors render services. The county judge of any county may appoint such inspectors for territory not within the limits of any city, village or incorporated town, fix their compensation and fees. Every such inspector shall hold office for one year and until his successor is qualified, and, with the approval of the power appointing him, may appoint deputies for whom he shall be responsible, who shall take the same oath and be liable to the same penalties as the inspector. All fees collected by such inspector or deputy shall be by him paid into the county, city, village or town treasury and be the property of such county, city, village or town. The salary of such inspector shall not exceed five thousand dollars (\$5,000.00) per year.

SEC. 2. Every such inspector, before entering upon the duties of his office, shall take and subscribe the following oath:

I do solemnly swear (or affirm, as the case may be), that I will support the Constitution of the United States, the Constitution and laws of the State of Illinois, and that I will faithfully discharge the duties of oil inspector (or deputy oil inspector) according to the best of my ability.

He shall execute a bond payable to the People of the State, if appointed by the county judge, or the city, village or incorporated town by whose mayor or president of the board of trustees he shall be appointed, in such sum as shall be required by the power appointing him, with sureties to be approved by the power appointing him, conditioned for the faithful discharge of the duties of his office. Any person aggrieved by the misconduct or neglect of such inspector may maintain suit on such bond for his own use. (Repealed by Act of June 29, 1915. Laws 1915, p. 533.) See page 352.

OIL INSPECTION—THIRD AMENDATORY ACT.

LAWS 1913, P. 442.

JUNE 27, 1913.

AN ACT to amend section 1 of an Act entitled, "An Act to revise the law in relation to oil inspection," approved March 12, 1874, in force July 1, 1874, as amended by an Act approved May 29, 1911, in force July 1, 1911.

SEC. 1. Be it enacted, etc.: That section 1 of an Act entitled, "An Act to revise the law in relation to oil inspection," approved March 12, 1874, in force July 1, 1874, as amended by an Act approved May 29, 1911, in force July 1, 1911, be and the same is hereby amended so as to read as follows:

SEC. 1. APPOINTMENT OF INSPECTORS—TERM OF OFFICE—FEES—SALARY.—The mayor of any city, with the approval of the city council, the president of the

board of trustees of any village or incorporated town, with the approval of such board of trustees, may, and on the petition of any five inhabitants thereof, shall, appoint one or more inspectors for the inspection of coal oil, petroleum, naphtha, gasoline, benzine, and other mineral oils or fluids, fix the compensation of such inspectors and prescribe the fees to be paid by those for whom such inspectors render services. The county judge of any county may appoint such inspectors for territory not within city limits, village, or incorporated town, fix their compensation and fees. Every such inspector shall hold office for one year, and until his successor is qualified, and with the approval of the power appointing him, may appoint deputies, for whom he shall be responsible, who shall take the same oath and be liable to the same penalties as the inspector. All fees collected by such inspector or deputy shall be paid by him into the county, city, village or town treasury and be the property of such county, city, village or town. The salary of such inspector shall not exceed five thousand dollars (\$5,000) per year: Provided, that any city having a population of less than one hundred thousand (100,000), or any village or town may by ordinance provide that such inspector or deputy shall receive in lieu of salary the fees collected by him. (Repealed by Act of June 29, 1915. Laws 1915, p. 533. See below.)

OIL INSPECTION—REPEALING ACT.

LAWS 1915, P. 531.

JUNE 29, 1915.

AN ACT in relation to oil inspection.

SECTION 1. Be it enacted, etc.: That the mayor of any city, with the approval of the city council, the president of the board of trustees of any village or incorporated town, with the approval of such board of trustees, may appoint one or more inspectors for the inspection of coal oil, petroleum, naphtha, gasoline, benzine, mineral seal, signal and other mineral oils or fluids, fix the compensation of such inspectors and prescribe the fees to be paid by those for whom such inspectors render services. The county judge of any county may appoint such inspectors for territory not within city limits, village or incorporated town, fix their compensation and fees. Every such inspector shall hold office for one year, and until his successor is qualified, and with the approval of the power appointing him, may appoint deputies, for whom he shall be responsible, who shall take the same oath and be liable to the same penalties as the inspector. All fees collected by such inspector or deputy shall be paid by him into the county, city, village or town treasury and be the property of such county, city, village or town. The salary of such inspector shall not exceed five thousand dollars (\$5,000.00) per year: Provided, That any city having a population of less than one hundred thousand (100,000) or any village or town may by ordinance provide that such inspector or deputy shall receive in lieu of salary the fees collected by him.

SEC. 2. Every inspector, before entering upon the duties of his office, shall take and subscribe the following oath:

I do solemnly swear (or affirm, as the case may be), that I will support the Constitution of the United States and the Constitution of the State of Illinois, and that I will faithfully discharge the duties of the office of oil inspector according to the best of my ability.

He shall also execute a bond payable to the People of the State, in such sum as shall be required by the county judge, city council or board of trustees, with one or more sureties to be approved by the county judge, mayor, or president of the board of trustees, conditioned for the faithful discharge of the duties of his

office. Any person aggrieved by the misconduct or neglect of such inspector may maintain (suit) thereon for his own use.

SEC. 3. Upon the arrival of any such oil or fluid, such inspector shall test the same with all reasonable dispatch by applying the fire test, as indicated and determined by J. Tagliabue's pyrometer, or some other instrument or means equally accurate, with which he shall have provided himself at his own expense.

SEC. 4. If the oils or fluids so tested will not ignite or explode at a temperature less than one hundred and fifty degrees Fahrenheit, the inspector shall mark, plainly and indelibly, on each cask, barrel or package, "Approved, fire test being —;" but if said oils or fluids will ignite at a temperature less than one hundred and fifty degrees Fahrenheit, as aforesaid, then the inspector shall mark on each cask, barrel or package, "Condemned for illuminating purposes; fire test being —." Said inspector, while in office, shall not buy, sell, bargain or trade, directly or indirectly, in any of the said oils or fluids, or be an employee of any refinery or firm dealing in the products herein mentioned.

SEC. 5. He shall also, within twenty-four hours after making any inspection, make a full and fair entry thereof in a record book to be kept for that purpose, which shall be open to all persons wishing to examine the same.

SEC. 6. Any such inspector or deputy who shall falsely brand any package, cask or barrel, or be guilty of any fraud, deceit, misconduct or culpable negligence in the performance of any of his official duties, shall be fined not exceeding \$200, and be liable to the party injured for all damages occasioned thereby.

SEC. 7. Any refiner or producer or any dealer in, or manufacturer, person, firm or corporation using, directly or in the manufacture of their product, coal oil, naphtha, gasoline, benzine, mineral seal, signal or other mineral oil or fluid, the product of petroleum, in any city, village or town in which such inspector is appointed, who shall neglect to give notice to such inspector, of any such oil or fluid in his possession, within two days after the same is made or refined by him or received into his possession, or shall offer any such oil or fluid for sale before the same has been so inspected, or shall sell or attempt to sell to any person, for illuminating purposes, any such oil which is below the approved standard—that is, having igniting point less than one hundred and fifty degrees Fahrenheit, as indicated and determined in the manner herein provided, or shall use any package, cask, barrel or other thing having the inspection brand thereon, the oil or fluid therein not having been inspected, or shall counterfeit any brand, shall be fined not exceeding \$200 and be liable to the party injured for all damages occasioned thereby, and all the casks, barrels or packages so falsely used, and their contents, shall be forfeited and may be seized and sold.

SEC. 8. All coal oil, naphtha, gasoline, benzine, or mineral seal, signal or other mineral oil or fluid, the product of petroleum, shipped by any refiner or producer within the State must be inspected by the inspector at the receiving point.

SEC. 9. The fines herein provided may be recovered in the name of the People of the State of Illinois before any justice of the peace of the county where the offense is committed, and if the offense is committed in the City of Chicago then before the Municipal Court of Chicago, and when collected, one-half shall be paid to the informer, and the other half and the proceeds of the sale of all casks, barrels and packages, and the contents thereof seized, as herein provided, shall be paid into the city, village or town treasury.

SEC. 10. "An Act to revise the law in relation to oil inspection," approved March 12, 1874, in force July 1, 1874, as amended by an Act approved May 29, 1911, in force July 1, 1911, and as further amended by an Act approved June 27, 1913, in force July 1, 1913, is hereby expressly repealed.

GAMBLING IN PETROLEUM.

LAWS 1887, P. 96.

JUNE 6, 1897.

AN ACT to suppress bucket-shops and gambling in stocks, bonds, petroleum, cotton, grain, provisions or other produce.

SECTION 1. Be it enacted, etc.: That it shall be unlawful for any corporation, association, co-partnership or person to keep or cause to be kept within this State any bucket-shop, office, store or other place wherein is conducted or permitted the pretended buying or selling of the shares of stocks or bonds of any corporation, or petroleum, cotton, grain, provisions or other produce, either on margins or otherwise, without any intention of receiving and paying for the property so bought, or of delivering the property so sold; or wherein is conducted or permitted the pretended buying or selling of such property on margins; or when the party buying any of such property, or offering to buy the same, does not intend actually to receive the same if purchased, or to deliver the same if sold. * * *

* * * * *

OILS USED IN COAL MINES.

LAWS 1895, P. 256.

APRIL 30, 1895.

AN ACT to prohibit the use of certain oils in coal mines and penalties for infraction of same.

SECTION 1. Be it enacted, etc.: That only a pure animal or vegetable oil, or other oil as free from smoke as a pure animal or vegetable oil, and not the product or by-product of rosin, and which has been inspected and complies with the following test, shall be used for illuminating purposes in the mines of this State.

All such oils must be tested at 60 degrees Fahrenheit. The specific gravity of the oil must not exceed 24 degrees Tagliabue. The test of the oil must be made in a glass jar one and five-tenths inches in diameter by seven inches in depth. If the oil to be tested is below 45 degrees Fahrenheit in temperature, it must be heated until it reaches about 80 degrees Fahrenheit, and should the oil be above 45 degrees and below 60 degrees Fahrenheit, it must be raised to a temperature of about 70 degrees Fahrenheit, when, after being well shaken, it should (shall) be allowed to cool gradually to a temperature of 60 degrees Fahrenheit, before finally being tested.

In testing the gravity of the oil, the Tagliabue hydrometer must be, when possible, read from below, and the last line which appears under the surface of the oil shall be regarded as the true reading. In case the oil under test should be opaque or turbid, one-half of the capillary attraction shall be deemed and taken as the true reading.

Where the oil is tested under difficult circumstances, an allowance of one-half degree may be made for possible error in parallax before condemning the oil for use in the mine. It shall be the duty of the State inspectors of mines in the several districts of the State to make the inspection provided for in this section before any such oil is sold for use in any mine in this State.

All oil sold to be used for illuminating purposes in the mines of this State shall be contained in barrels or packages branded conspicuously with the name of the dealer, the specific gravity of the oil, the date of shipment, the date and place of inspection and the name of the State Inspector of Mines making said inspection.

It is provided, however, that any material that is as free from smoke and bad odor and of equal merit as an illuminant as a pure animal or vegetable oil may be used at the pleasure of mine operators and miners. (Amended.)

SEC. 2. Any person or persons, firm or corporation which ships any oil contained in any barrel or barrels, package or packages, which are not branded as prescribed in section 1 of this Act, said oil to be used for illuminating purposes in coal or other mines, and any person or persons, firm or corporation, which sells any oil other than that prescribed in section 1, to be used for illuminating purposes in coal or other mines, and any person or persons, firm or corporation, having in charge the operation or running of any mine which, in a mine under his or its charge, uses or permits the use of any oil other than that prescribed in section 1 and any miner or mine employé who uses, with a knowledge of its character, in any mine of this State, any oil other than that prescribed in section 1 of this Act, shall be fined not less than \$5.00 nor more than \$50.00, and any individual, firm, company or corporation which sells any oil other than that prescribed in section 1 of this Act, in a quantity exceeding five barrels at one sale, to be used for illuminating purposes in coal or other mines, shall be fined not less than \$25.00 nor more than \$100.00.

Justices of the peace shall have jurisdiction to try any violations of this Act. Every person convicted of a second or other offense against this Act, in addition to the fine before provided shall be sentenced to the county jail for not less than ten days nor more than ninety days.

It shall be the duty of the inspector of mines in each district to notify the State's Attorney of the respective county of any violations of the above provisions. And the State's Attorney shall prosecute as in other cases of misdemeanors.

NOTE.—This act was doubtless repealed by implication by the general mining act of April 18, 1899, page 187. Expressly repealed by act of June 6, 1911 (Laws 1911, 388, p. 418).

OIL—TESTING—AMENDATORY ACT.

LAWS 1901, P. 247.

MAY 11, 1901.

AN ACT to amend section 1 of "An act, etc. (same as section 1).

SECTION 1. Be it enacted, etc.: That section one of "An act to prohibit the use of certain oils in coal mines, and penalties for infraction of same," approved April 30, 1895, in force July 1, 1895, be, and the same is hereby, amended so as to read as follows: That only a pure animal or vegetable oil, or other oil as free from smoke as a pure animal or vegetable oil, and not the product or by-product of resin, and which has been inspected and complies with the following test, shall be used for illuminating purposes in the mines of this State. All such oils must be tested at 60 degrees Fahrenheit. The specific gravity of the oil must not exceed 24 degrees Tagliabue. The test of the oil must be made in a glass jar one and five-tenths inches in diameter by seven inches in depth. If the oil to be tested is below 45 degrees Fahrenheit in temperature, it must be heated until it reaches about 80 degrees Fahrenheit; and should the oil be above 45 degrees and below 60 degrees Fahrenheit, it must be raised to a temperature of about 70 degrees Fahrenheit, when, after being well shaken, it should (shall) be allowed to cool gradually to a tem-

perature of 60 degrees Fahrenheit, before finally being tested. In testing the gravity of the oil, the Tagliabue hydrometer must be, when possible, read from below, and the last line which appears under the surface of the oil shall be regarded as the true reading. In case the oil under test should be opaque, or turbid, one-half of the capillary attraction shall be deemed and taken as the true reading. Where the oil is tested under difficult circumstances, an allowance of one-half degree may be made for possible error in parallax before condemning the oil for use in the mine. It shall be the duty of the State inspectors of mines, in the several districts of this State, to make the inspection provided for in this section before any such oil is sold for use in any mine in this State. All oil sold to be used for illuminating purposes in the mines of this State shall be contained in barrels or packages branded conspicuously with the name of the dealer, the specific gravity of the oil, the date of shipment, the date and place of inspection, and the name of the State inspector of mines making the said inspection. It is provided, however, that any material that is as free from smoke and bad odor and of equal merit as an illuminant as a pure animal or vegetable oil may be used at the pleasure of mine operators and miners.

PLUGGING OIL AND GAS WELLS.

LAWS 1905, P. 326.

MAY 16, 1905.

AN ACT in relation to sinking, filling and operating of oil or gas wells.

SEC. 1. Be it enacted, etc.: That before the casing shall be drawn from any well for the purpose of abandonment thereof, which has been drilled into any gas or oil bearing rock it shall be the duty of any person, firm or corporation having the custody or control of such well at the time of such abandonment, and also the owner or owners of the land wherein such well is situated, to properly and securely stop and plug the same in the following manner: Such hole first be solidly filled from the bottom thereof to a point at least twenty feet above such gas or oil bearing rock, with sand, gravel or pulverized rock, immediately on the top of which filling shall be seated a dry wood plug not less than two feet in length, having a diameter of not less than one-fourth of an inch less than the inside diameter of the casing in such well. Above such wooden plug such well shall be solidly filled for a least twenty-five feet with the above mentioned filling material, immediately above which shall be seated another wood plug of the same kind and size as above provided, and such well shall again be solidly filled for at least twenty-five feet above such plug with such filling material. After the casing has been drawn from such well there shall immediately be seated at the point where such casing was seated a cast-iron ball or tapered wood plug at least two feet in length, the diameter of which ball or the top of which wood plug shall be greater than that of the hole below the point where such casing was seated, and above such ball or plug, such well shall be solidly filled to top of well with aforesaid material.

SEC. 2. The person, firm or corporation owning or having control or custody of any such well, or the land in which any such well is situated, shall file or cause to be filed in the office of the recorder of the county in which any such well is located, within fifteen days after the same has been plugged, as provided in section 1, the affidavit of at least two persons who were present during the plugging of such well, which affidavit shall be recorded in the record books in the office of the recorder of such county, and shall set out in detail the manner in which such well was plugged and the depth of each such wood plugs and iron ball below the surface of the ground, and the record of such affidavit

shall be prima facie evidence in any court of a compliance with the provisions of this act.

SEC. 3. It shall be the duty of any person, firm or corporation sinking a well in any oil or gas-bearing rock, or having sunk such well and maintaining the same, to case off and keep cased off all fresh water from such well.

SEC. 4. Any person, firm or corporation that shall in any manner fail or refuse to plug a well in the time and manner provided in section 1 of this act, or shall fail or neglect to secure and file in the proper recorder's office the affidavit provided for and required in section 2 of this act, or shall fail and neglect to properly case off fresh or salt water from such well and keep the same cased off while said well is maintained, as provided in section 3 of this act, shall be liable to a penalty of one hundred dollars (100) for each and every violation thereof, and the further sum of one hundred dollars (\$100) for each ten days during which such violation shall continue, and all such penalties shall be recoverable in a civil action brought in any court of competent jurisdiction in any county in which said violation occurred, brought in the name of the State of Illinois on the relation of such county, and for the use and benefit of such county, and in all such cases, if there be recovery by the State, it shall recover in addition to such penalties a reasonable attorney's fee.

SEC. 5. Whereas, An emergency exists for the immediate taking effect of this act; therefore, the same shall be in force and effect from and after its passage.

OIL WELL NEAR COAL MINE—AMENDATORY ACT.

LAWS 1911, P. 426.

JUNE 7, 1911.

AN ACT to amend an Act entitled, "An Act," etc. (same as section 1).

SECTION 1. Be it enacted, etc.: That an Act entitled, "An Act in relation to sinking, filling and operating of oil or gas wells," approved and in force May 16, 1905, be, and the same is hereby amended to read as follows:

SEC. 1. No oil or gas well shall be drilled hereafter nearer than 250 feet to any opening to a mine used as a means of ingress or egress for the persons employed therein or which is used as an air shaft.

SEC. 2. It shall be the duty of any person, firm or corporation having the custody or control of any well drilled for gas or oil, and of the owner of the land in which such well is drilled, when the drill holes penetrates a coal seam, to file in the office of the recorder of the county in which said oil or gas well is drilled, and in the office of the State Mining Board, within fifteen days after completing said well, a statement and map giving the location and depth of every well so drilled, and the county recorder shall file and enter and index same in the records of his office relating to the titles to real property.

SEC. 3. Before the casing shall be drawn from any well for the purpose of abandonment thereof, which has been drilled into any gas or oil-bearing rock, it shall be the duty of any person, firm, or corporation having the custody or control of such well at the time of such abandonment, and also the owner or owners of the land wherein such well is situated, to properly and securely stop and plug the same in the following manner: Such hole first be solidly filled from the bottom thereof to a point at least twenty feet above such gas or oil-bearing rock with sand gravel or pulverized rock, immediately on the top of which filling shall be seated a dry wood plug not less than two feet in length, having a diameter of not less than one-fourth of an inch less than

the inside diameter of the casing in such well. And above such wooden plug such well shall be solidly filled for at least twenty-five feet with the above-mentioned filling material, immediately above which shall be seated another wood plug of the same kind and size as above provided, and such well shall again be solidly filled for at least twenty-five feet above such plug with such filling material. After the casing has been drawn from such well there shall immediately be seated at the point where such casing was seated a cast-iron ball or tampered wood plug at least two feet in length, the diameter of which ball or the top of which wood plug shall be greater than that of the hole below the point where such casing was seated and above such ball or plug such well shall be solidly filled to top of well with the aforesaid material.

SEC. 4. The person, firm or corporation owning or having control or custody of any such well, or the land in which any such well is situated, shall file or cause to be filed in the office of the recorder of the county in which any such well is located, within fifteen days after the same has been plugged, as provided in section 3, the affidavit of at least two persons who were present during the plugging of such well, which affidavit shall be recorded in the record books in the office of the recorder of such county, and shall set out in detail the manner in which such well was plugged and the depth of each such wood plugs and iron ball below the surface of the ground, and the record of such affidavit shall be prima facie evidence in any court of a compliance with the provisions of this Act.

SEC. 5. It shall be the duty of any person, firm or corporation sinking a well in any oil or gas bearing rock, or having sunk such well and maintaining the same, to case off and keep cased off all fresh water from such well.

SEC. 6. Any person, firm or corporation violating the provisions of section 1 or failing to comply with the provisions of section 2 of this Act, or who shall fail or refuse to plug a well in the time and manner provided in section 3 of this Act, or shall fail or neglect to secure and file in the proper recorder's office the affidavit provided for and required in section 4 of this Act, or shall fail and neglect to properly case off fresh water from such well and keep the same cased off while said well is maintained, as provided in section 5 of this Act, shall be liable to a penalty of one hundred dollars (\$100) for each and every violation thereof, and the further sum of one hundred dollars (\$100) for each ten days during which such violation shall continue, and all such penalties shall be recoverable in a civil action brought in any court of competent jurisdiction in any county in which said violation occurred, brought in the name of the State of Illinois on the relation of such county, and for the use and benefit of such county, and in all such cases; if there be recovery by the State, it shall recover in addition to such penalties a reasonable attorney's fee.

SEC. 7. Whereas, An emergency exists for the immediate taking effect of this Act; therefore, the same shall be in force and effect from and after its passage.

Approved June 7, 1911.

SALINES.

SALT SPRINGS—ACCEPTANCE.

REVISED STATUTES 1845, P. 27.

AUGUST 26, 1818.

WHEREAS, the Congress of the United States, in the act entitled "An act to enable the people of the Illinois Territory to form a Constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, passed the 18th of April, 1818," have offered to this convention for their free acceptance or rejection, the following propositions, which, if accepted by the convention are to be obligatory upon the United States, viz:

* * * * *

2d. That all salt springs within such State, and the lands reserved for the use of the same, shall be granted to the said State for the use of the said State, and the same to be used under such terms and conditions and regulations as the Legislature of said State shall direct: Provided, The Legislature shall never sell nor lease the same for a longer period than ten years at any one time.

* * * * *

Done in convention at Kaskaskia, the 26th day of August, in the year of our Lord, 1818, and of the Independence of the United States of America, the forty-third.

SALTPETER.

LAWS 1817-18 (TERRITORY), P. 27.

DECEMBER 29, 1817.

AN ACT concerning the manner of working saltpeter caves.

Be it enacted, etc.: That if any person shall occupy or work any Salt Petre cave or caves in this territory without first securing the same with a good and sufficient fence of the height required in other cases by law, so that horses, and neat cattle can not get to the same; every person or persons so offending shall forfeit and pay to the owner of any horse or horses, or neat cattle that shall be killed by drinking the tray lye, a sum double the value of any such horse or horses or neat cattle, to be recovered before any court having competent jurisdiction to try the same by an action of debt.

SALTPETER CAVES.

REVISED STATUTES 1845, P. 490.

MARCH 3, 1845.

SEC. 1. All persons working saltpetre caves in this State, for the purpose of manufacturing saltpetre, shall, previous to commencing the manufacture of saltpetre, inclose such caves with a good and lawful fence, and keep the same at all times in good repair, so as to prevent cattle and other stock from gaining access thereto.

SEC. 2. All persons working saltpetre caves in this State, and not first complying with the preceding section, may be fined, in any sum not exceeding fifty dollars, to be recovered before any justice of the peace of the county in which the offence may be committed, upon complaint made by any person, in the name of the county commissioners' court of such county, one-half to the person suing therefor, the other to the county commissioners' court of the county; and shall also be liable for all damage which individuals may sustain by reason of their stock gaining access to saltpetre caves or manufactories.

LEASING SALINES.

LAWS 1819, P. 7.

FEBRUARY 6, 1819.

AN ACT authorizing the governor to lease the saline near Shawneetown.

SEC. 1. Be it enacted by the People of the State of Illinois represented in General Assembly, and it is hereby enacted by the authority of the same, That the Governor be, and he is hereby authorized to lease, for a term of two years commencing on the fourth day of December last to Johnathan Taylor, Timothy Guard, George Robinson, James Ratcliff, Meredith W. Fisher, Willis Hargrave, and their associates, the saline works near Shawneetown, according to the several propositions made by the said Johnathan Taylor, Timothy Guard, George Robinson, James Ratcliff, and Meredith W. Fisher, made to and accepted by the General Assembly at the present session upon such stipulations and regulations as he may deem proper: Provided, They shall surrender to this state their present leases from the United States.

SEC. 2. And be it further enacted, That it shall and may be lawful for the Governor and he is hereby authorized in case of any of the lessees shall hereafter forfeit their leases by any violation of the stipulations contained in their lease to cause possession thereof to be taken of such forfeited premises; and may lease them out to others upon such terms and conditions as he may deem necessary, during the residue of the term for which such lease may have been let.

SEC. 3. And be it further enacted, That the Governor shall be, and he is hereby, authorized to lease such other part or parts of the lands lying within the saline reservation which shall not be occupied for the purposes of the manufacture of salt, for the purposes of public inns, etc. * * *

* * * * *

DISCOVERY OF SALT WATER.

LAWS 1819, P. 114.

MARCH 4, 1819.

AN ACT to encourage the discovery of salt water.

WHEREAS, It appears to the satisfaction of this General Assembly that there are still existing concealed within this state many valuable salt springs and saline waters, which, if discovered might be beneficial to the public good: Therefore,

SEC. 1. Be it enacted, etc.: That for the purpose of encouraging the discovery of saline waters, and the manufacture of salt, the Governor is hereby authorized to lease to any person, persons, or company, any quantity of land not exceeding one section at any one place within this state, for the purpose of carrying into effect the manufactory of salt: Provided, Said lease shall not extend to affect in any wise the rights or any individual or individuals, nor Indians.

SEC. 2. Be it further enacted, That the Governor shall have power to require and obtain by agency, proxy, or by such other means as he may think proper to employ, any information that he may think requisite to enable him to encourage the discovery of salines; and if any person, persons or company shall make application to lease any such discoveries avowedly for the purpose of manufacturing salt, the Governor shall have power to lease to them the same on such terms and conditions as he may think most conducive to the interest of the public good. But in all cases the original discoverer shall have the right to claim the preference to said lease.

SEC. 3. Be it further enacted, That if any person, persons or company shall come forward claiming under the foregoing provisions of this act or claiming under the authority and right of the original discoverer any saline water and shall have given satisfactory evidence to the Governor of the validity and legality of their right, and that said lease is not to be on any of the lands before mentioned nor on the military bounty lands then he is hereby authorized to sign such lease or bargain to such person, persons or company of such discovery as aforesaid under such restrictions, limitations, and conditions as he may deem just: Provided, such lease or bargain shall not extend to a longer period than ten years from and after the signing and ratification thereof.

SEC. 4. And be it further enacted, That all necessary expenditures shall be paid out of the proceeds arising from said salt works so leased by the Governor and that no public money in the state treasury shall be appropriated toward carrying into effect the provisions of this act.

RENTS FROM SALINES.

LAWS 1819, P. 165.

MARCH 22, 1819.

AN ACT authorizing the governor of this state to receive certain rents from the lessees of the Ohio saline Lick.

WHEREAS, The act authorizes the Governor of the State of Illinois to lease the Ohio saline Lick, did not properly authorize him to receive the amount of money or salt due from the late lessees from the United States, which is due from the 26th day of August, 1818, until the 4th day of December of the same year: For remedy whereof,

SEC. 1. Be it enacted, etc.: That the Governor of this state be, and he is hereby authorized and empowered to receive and contract for the selling of or authorizing any agent or agents to receive or contract for the selling of any salt which is or may be found to be due or owing to this state from the lessees of the Ohio saline Lick, by virtue of a lease obtained by them from the United States and which lease was assigned by the President of the United States to this state from the 26th day of August until the 4th day of December in the year 1818.

SEC. 2. Be it further enacted, That should the Governor see proper to receive the rent in money or when the salt may be sold for money, in either case the Governor shall deposit the money in the treasury of this state.

LEASING SALINES.

LAWS 1819, P. 236.

MARCH 24, 1819.

AN ACT authorizing the leasing of Muddy Saline.

SEC. 1. Be it enacted, etc.: That the Governor of the state be and he is hereby authorized to lease the saline on Muddy River, known by the name of Muddy Saline near the town of Brownville, for any term of years not exceeding ten to such person or persons as may appear most advantageous to the state.

SEC. 2. And be it further enacted, That previous to making such lease, it shall be the duty of the Governor to publish in one or more public newspapers in this state thirty days previous to receiving proposals for the same, that the same will be leased on some day specified in such notice: and it shall be the duty of the Governor to file the contract entered into with the lessees of the same in the office of the Secretary of State for the benefit of the state and the monies arising from said saline shall be paid over according to the terms of the lease into the treasury of the state to be subject to be disposed of in the same manner that other public monies are.

GALLATIN COUNTY SALINE.

LAWS 1820-21, P. 103.

FEBRUARY 8, 1821.

AN ACT concerning the Gallatin County Saline.

SEC. 1. Be it enacted, etc.: That there shall be elected by the General Assembly a person to superintend the salt works in Gallatin County, who shall reside on the premises and who shall give bond to the Governor of the state of Illinois and his successors in office in the sum of \$8,000, with security to be approved by him, and who shall receive a salary of \$800 per year, payable quarter yearly out of the state treasury, who shall be liable to be suspended by the Governor until the meeting of the General Assembly and to be removed from office by the General Assembly for any palpable omission or misconduct in his office of superintendent. The said superintendent shall be elected to continue in office till the end of the present lease of the said saline.

SEC. 2. Be it further enacted, That it shall be the duty of the said superintendent as soon as he shall be qualified to enter upon and take possession of any establishment or establishments at the same saline where the lessee or lessees thereof have violated his or their lease by failing to comply with any of the covenants or conditions of his or their lease: and when any lease of any establishment at said saline now made, or that hereafter may be made, shall be violated by the lessee or lessees, it shall be the duty of the said superintendent to enter upon and take possession of the premises; and for the purpose of carrying this section into effect, the said superintendent is hereby authorized and empowered to summon to his aid as many persons as may be necessary to take and retain possession of any establishment or establishments at said saline, forfeited by any lessee or lessees. * * *

SEC. 3. Be it further enacted, That whenever the said superintendent shall have taken possession of any establishment of the said saline by virtue of this Act, it shall be his duty to advertise for five weeks in some public newspaper or newspapers that said establishment has been by him taken, and that upon a certain day in the said advertisement to be named, it will be let to the highest bidder, and the said superintendent on the day fixed shall proceed to lease the said establishment to the highest bidder for the residue of the term of the lease which shall have been forfeited, observing always to bind the lessee or lessees with all the conditions of the forfeited lease, and such other as he may deem necessary, and to require good and sufficient security.

SEC. 4. Be it further enacted, That it shall be the duty of said superintendent as soon as he shall be appointed and qualified to office to enter upon and take possession, for and on behalf of the state, of all such metal and other things which formerly belonged to the United States but which passed to this state by virtue of the grant of the said saline by Congress to this state in the year 1818: and to receive at a valuation to be fixed by three appraisers to be mutually

chosen by him and the party concerned, any metal or other property necessary to the making of salt, which may belong to any of the late lessees of the state, and which they may be willing to transfer in payment of their rent yet due or in arrear to the state: and the same metal when so taken or received in payment of rents, the said superintendent shall distribute among the present or any subsequent lessee or lessees in such manner as it may most properly appertain to their respective establishments, taking their receipts for the same, expressing the valuation thereof and their obligations to return the same amount at the expiration of their respective leases, with six per cent interest and the value of the same as appraised to them: the metal and other property returned to be of the same value (which shall be ascertained by appraisers as above provided) as that received by them in the first instance.

SEC. 5. Be it further enacted, That the said superintendent shall from time to time as it may be necessary have power to sue or distrain for rent as the same may become due and be unpaid; to receive the said rents and give acquaintances therefor and remit all monies received by him forthwith to the treasury and generally to do and perform all and singular which may appertain to his said office; Provided, that whenever any lessee shall attempt to remove his property before any or all of the rent shall become due, it shall be the duty of the said superintendent to proceed to distrain for the rent in the same manner as if the rent were actually due.

SEC. 6. Be it further enacted, That it shall be the duty of the governor of the state to manage and superintend all the other salines of the state in such manner as he may deem most conducive to the public interest: and he may appoint an agent or agents to aid him in said business who shall be paid out of the contingent sum: Provided, that he shall never lease or otherwise dispose of any such saline for a longer period than ten years.

SUPERINTENDENT OF GALLATIN COUNTY SALINE.

LAWS 1822-23, P. 76.

JANUARY 3, 1823.

AN ACT relative to the duties of the Superintendent of the Gallatin County Saline, and the Auditor of the State relative thereto.

SEC. 1. Be it enacted, etc.: That it shall be the duty of the Superintendent of the Gallatin County Saline to forward to the Auditor of Public Accounts, copies of leases hitherto entered into with the several lessees, and which have not yet expired.

SEC. 2. Be it further enacted, That hereafter it shall be the duty of the said Agent, whenever it shall become necessary to renew any lease or make any contract by which any payment shall be stipulated to be made to this state, forthwith to forward copies of such leases or contracts to the Auditor of Public Accounts.

SEC. 3. Be it further enacted, That it shall be the duty of the Auditor, upon receipt of such copies, to debit in the proper accounts, the amount due on any lease or contract made by said Superintendent. And it shall be the duty of said Superintendent to settle such accounts with the Auditor on or before the tenth day of December annually; paying over at the same time all monies by him received from the lessee or lessees to the Treasurer of this State.

SEC. 4. Be it further enacted, That it shall be the duty of the said superintendent to report biennially to the general assembly on or before the tenth day of their session, the situation of the public property under his superintendence; the amount of moneys received during the two preceding years;

amount due on leases, and generally whatever relates to the establishment that may be deemed of public interest.

Sec. 5. Be it further enacted, That the amount to be paid by the lessee or lessees, under any contract or lease hereafter made by the said superintendent, for the use of the metal and other property at the said saline belonging to this state, shall be at and after the rate of six per centum per annum interest, on the value of the same, as appraised to him or them, under the fourth section of the act entitled "An act concerning the Gallatin county Saline," passed the 8th of February, 1821.

VERMILLIAN SALINE.

LAWS 1822-23, P. 133.

FEBRUARY 12, 1823.

AN ACT relative to the Vermillian Saline.

Sec. 1. Be it enacted, etc.: That if any person shall commence boring or digging for salt water upon any part of the reservation of land at the Vermillian Saline, no other person shall bore or dig for salt water nearer to such improvement than one-quarter of a mile, unless the person first commencing, as aforesaid, shall neglect to pursue his undertaking for the space of two months, or shall certify in writing that he has abandoned it.

Sec. 2. Be it further enacted, That if any person shall succeed in procuring salt water, as aforesaid, the governor of this state shall grant him a lease, free from rent, of the section of land containing such salt water, for a term not exceeding five years, together with such quantity of timber, and privilege of procuring building stone, as will, in the opinion of the governor, be sufficient to enable such person to work to advantage whatever salt water he may have discovered.

Sec. 3. Be it further enacted, That the governor of this state is hereby authorized to grant to Seymour Treat and James B. McCall, for themselves and their associates, a lease of such additional wood land as he may deem proper, not exceeding one section, together with the privilege of procuring stone, for the use of their works.

RELIEF OF LESSEES.

LAWS 1824-25, P. 8.

DECEMBER 11, 1824.

AN ACT for the relief of certain Lessees of the Gallatin County Saline.

Sec. 1. Be it enacted, etc.: That Lowrey Hay, Benjamin White, Street and Lafferty, Leonard White, and A. G. S. Wight, lessees of portions of the Gallatin county Saline, be, and they are hereby, released and acquitted from the payment of any rent, which has accrued, and now remains unpaid, or which shall accrue until the fourth day of December, in the year 1826, upon the conditions hereinafter prescribed.

Sec. 2. Be it further enacted, That the aforesaid lessees are hereby authorized to lay out and expend, under the direction of the superintendent of the said saline, in attempts to discover salt water of a stronger quality, upon the premises leased by them, respectively, the rent which shall have accrued, by virtue of their present contracts of lease, from the fourth day of December, in the year 1823, to the fourth day of December, in the year of our Lord 1826: and the said lessees shall be entitled to a credit for so much as they shall thus lay out and expend: Provided, That the amount, thus laid out and expended, does not exceed the amount of rent accruing between the periods of time last aforesaid: And provided further, That in the event that the said lessees, or

either of them, shall succeed in obtaining salt water of a stronger quality, by one third, than that which has already been used, then, and in that event, such lessee or lessees shall be liable to pay for the period of time last aforesaid, the same rent as though this act had not been passed.

FENCING OFF SALINES.

LAWS 1824-25, P. 10.

DECEMBER 14, 1824.

REVISED CODE OF 1828-29, P. 142.

AN ACT to prevent Cattle from being injured in the vicinity of Salines.

SECTION 1. Be it enacted, etc.: That the owners, renters, or lessees, of any Salines within this state, who shall hereafter cause to be exposed any pickle, brine, or salt water, which in its nature is injurious and hurtful to any horned cattle, horses, hogs, sheep, mules, or other domestic animals, without having erected good and sufficient barricadoes, to prevent such animals and cattle from having access to the same, to the injury of such cattle and their owners, by causing the same to be injured or die, that such person or persons, so offending, against the provisions of the foregoing statute, shall be liable to prosecution before any court of competent jurisdiction in this state, and be liable in an action of damages to the owner or owners of any cattle that may suffer or die by such neglect, in the full amount of their value, and costs.

SEC. 2. Be it further enacted, That this law shall be in force from and after its passage.

LEASING OF BIG MUDDY SALINE.

LAWS 1824-25, P. 49.

JANUARY 3, 1825.

AN ACT to authorize the Governor to lease the Big Muddy Saline.

SECTION 1. Be it enacted, etc.: That the governor of this state be, and he is hereby empowered and required to lease the Saline on Big Muddy river to James Pearce, for the term of ten years, free of rent, upon conditions that the said James Pearce shall dig and bore a well of the depth of two hundred feet or more, and shall erect furnaces and buildings necessary for the manufacture of salt, and all the dwelling houses necessary for the accommodation of the persons to be employed in making salt; which said well and buildings shall be commenced within one year from the commencement of said lease, and shall be completed within two years after the commencement of said lease; and the governor shall require of the said James Pearce, a bond, with sufficient security, to be approved by him, in the penalty of two thousand dollars, conditioned as aforesaid, which bond shall be forfeited upon the failure of any of the aforesaid conditions: and upon the expiration of the said term of ten years, the said Pearce shall leave all the buildings and improvements made by him in good repair.

SEC. 2. Be it further enacted, That if the said Pearce shall be successful in procuring salt water, and should purchase metal to make salt, the person or persons who, at the end of this lease, shall rent the said Saline, shall purchase of said Pearce all the metal that he may then have on hand and in use, at a fair valuation, to be estimated by three disinterested persons.

VERMILLION SALINE.

LAWS 1824-25, P. 118.

JANUARY 15, 1825.

AN ACT to amend "An act relative to the Vermillion Saline," approved February 12, 1823, and to extend the Lease on the Shoal Creek Saline.

SEC. 1. Be it enacted, etc.: That if any person or persons shall succeed in procuring salt water, agreeably to the first section of the act to which this is an

amendment, the governor shall grant a lease, free of rent, to such person or persons, of a sufficiency of land, containing such salt water, and woodland, in all not exceeding one section, to be laid off as the governor may deem most advisable, to promote the manufactory of salt, together with the privilege of procuring building stone, as shall, in the opinion of the governor, be right, for the term of ten years; anything in the second section to the contrary notwithstanding.

SEC. 2. Be it further enacted, That the leases granted to Seymore Treat, and James B. McCall, for themselves and associates, be, and they are hereby extended to the 16th day of December, 1829, then to be complete and ended, upon the same stipulations and conditions expressed in their bond given on the 16th day of December, 1822: Provided, That this extension of lease shall not be granted unless the said Treat and McCall, or the legal holder or holders of said leases, shall, ten days previous to the expiration of the present leases, give new bond and sufficient security, to the governor, in the same sum stated in the present bond.

SEC. 3. Be it further enacted, That the lease entered into between the governor of this state on the part of the people, and Samuel Montgomery and Stephen Galard, of the county of Bond, on the 20th of September, 1823, relative to the Shoal Creek Saline, be, and the same is hereby extended until the year 1833; Provided, That the said Montgomery and Galard, shall, on or before the 20th of September, 1827, renew said lease, with the said governor, or his successor in office, to improve, if necessary, one hundred feet deeper than stipulated in the above named lease of the 20th of September, and in all other respects the extension of the lease shall be upon the same conditions as the one now in existence.

GALLATIN COUNTY SALINE.

LAWS 1826-27, P. 361.
(REVISED CODE).

FEBRUARY 2, 1827.

AN ACT regulating the Gallatin County Saline.

SECTION 1. Be it enacted, etc.: That at the present session of the general assembly, there shall be elected by joint ballot, a person who shall be styled "The superintendent of the Gallatin county Saline," who shall reside upon the saline tract; the said superintendent shall execute a bond to the governor of the state of Illinois, and his successors in office, in the sum of eight thousand dollars, with security to be approved by the governor, conditioned for the faithful performance of the duties of his office. The superintendent shall be subject to removal or suspension, by the governor for the time being, for any palpable misconduct or omission of duty in his office, until the meeting of the general assembly next ensuing such misconduct or omission, and may be removed for the like causes by the general assembly. The superintendent, except for the causes aforesaid, shall hold his office four years, and shall receive a salary of five hundred state paper dollars per annum, payable yearly out of the state treasury: Provided, the said salary shall never exceed the net profits of the rents of said saline, after paying all expenses.

SEC. 2. The said superintendent shall have full power and authority, to take care of the property of the state, comprehended within, or situate upon the tract called the Gallatin county salines, whether the same be real or personal, and shall have the general supervision thereof, and shall be vested with all rights and powers necessary to protect and preserve the interests of the state accruing from, or arising out of the said saline.

SEC. 3. The superintendent shall, within two months after the passage of this act, cause all the metal on the saline tract aforesaid, belonging to the state, to be collected, and shall advertise and sell the same so soon as practicable, for the highest price that can be had for the same, not less than three cents per pound, payable either in cash or good merchantable salt, well manufactured, delivered at the works in barrels at thirty-seven and a half cents per bushel, in four semi-annual instalments, the purchasers giving good and sufficient securities, payable to said superintendent, or his successors in office, for the use of the people of the state of Illinois. And in case any individual or individuals, who have received metal and owe for the same, be disposed to pay up and settle for the same in salt, it shall be lawful for said superintendent to take the amount due in salt, at thirty-seven and a half cents per bushel, put up and delivered at the lick as aforesaid, and may give them the same time to pay in as those who buy, four semi-annual payments, they giving bond and good security. Which salt, the superintendent shall sell on said saline tract, for the best price that can be had, not less than thirty-seven and a half cents per bushel for cash in hand.

SEC. 4. The superintendent is authorized to execute leases to Andrew Frazier and Benjamin White, for their several places, or so much thereof, as may be necessary to carry on their several manufactories, and lay off to each of them a sufficiency of land, and fuel and building timber, sufficient to use the wells and springs now occupied by them, or such as they may hereafter acquire, and to include all their present improvements. And they, the said Andrew Frazier and Benjamin White, shall each give good security, in their leases, to be approved by the superintendent, for the faithful performance of all the stipulations therein contained; and they shall each pay two hundred and fifty dollars per annum, payable half yearly; the leases to expire on the fourth day of December, 1836; and should the said Andrew Frazier, or Benjamin White fail, or refuse to execute said lease or leases, within two months from the passage of this act, it shall be the duty of the superintendent to enter upon, and take possession of either, or both of said places, (as the case may be,) and advertise in some newspaper printed in this state, that he will lease such place or places, to the highest and best bidder, having in all cases, reference to the production of the greatest possible quantity of salt; and if any lessee shall fail to pay any rent within thirty days after the same shall become due, the superintendent shall have power, and it shall be his duty, immediately to dispossess said lessee or lessees, and proceed against them by action or otherwise, in the most summary and expeditious mode, to recover the rent due from them or any of them, and may proceed again to lease the premises for the unexpired time of the original lease.

SEC. 5. The superintendent is authorized to lease to Lowry Hay, the lot now in his possession, for five years, from the passage of this act, free of rent; and after that time, should the said Hay discover water of equal strength with that now used by White and Guard, he shall be chargeable with the same rent; and should the discovery be of an inferior quality, the superintendent may fix such rent as is reasonable and just, according to his discretion; the said Hay's lease to continue until the fourth day of December, 1836.

SEC. 6. The superintendent may lease to any person or persons, any vacant place on said tract, for the purposes of manufacture or discovery, on the same terms as are before provided for Lowry Hay; in all such cases, the leases granted, are to expire on the fourth day of December, 1836; and the superintendent shall not grant to any person more than one lease, nor more than one lot in the same lease; nor shall he in any case take another lessee or salt maker as security.

SEC. 7. The superintendent is authorized to enter upon any premises by him leased as aforesaid, to make distress for any rent due, or where any payment is about to become due, and the lessee has or is about to remove away, the said superintendent shall forcibly, and without delay, seize and take possession of all his works, salt, and any other personal property, and after advertising the same in four of the most public places for fifteen days, shall fairly expose and sell the same, or so much thereof, as will pay the rent due, or the payment about to become due, and all reasonable costs and charges; and for the purpose of carrying this provision into effect, the superintendent is hereby authorized and empowered, to summon to his aid as many persons as may be necessary to take and retain possession of any establishment, or other property of said lessee; and any person so summoned by said superintendent, failing or refusing to aid him, shall be fined by said superintendent, in any sum not less than five, nor more than twenty dollars; and said superintendent is hereby authorized and empowered to issue his execution to any constable of the county, and collect the same with costs, for the use of the state. And should any person or persons commit any waste, spoil, or trespass, on the vacant lands of the said saline tract, the superintendent is authorized to employ a sufficient force to expel such person or persons therefrom; and on complaint of any lessee and request to the said superintendent, he may employ the like force, and expel with strong hand, any person or persons trespassing on the tract, or any part thereof, so leased as aforesaid.

SEC. 8. It shall be the duty of the superintendent whenever any lease shall be taken by the authority of this act, to furnish the auditor with a true copy thereof, and to account with the auditor and pay over to the treasurer on the first Monday of December annually, all monies accruing to the state, from the said saline, whether by lease or otherwise; and shall further, on or before the tenth day of every regular session of the general assembly, make a full and complete report of all matters and things relating to the said saline.

SEC. 9. Andrew Frazier, shall within three months after taking his lease, erect, or cause to be erected and kept up, a ferry across Saline creek, at Island ripple, the rates to be fixed by the county commissioners; and when established, he shall in all respects be governed by the act regulating ferries. If he shall neglect or refuse to establish one, the county commissioners may take possession of the place for the purpose, and erect one on application or otherwise.

SEC. 10. The superintendent may occupy the farm free of rent, on the lot lately occupied by Street and Lafferty; and he may be absent on business a reasonable time, leaving an agent to act for him at his own risk and expense.

SEC. 11. From and after the first day of August next, all salt sold by any lessee, or any other person selling at any of the works, shall be weighed in scales by standard weight.

SEC. 12. Timothy Guard, is hereby released from the excess of rent by him covenanted to be paid as lessee, of lot number two, of the Gallatin county saline, over and above five hundred dollars per annum. All laws inconsistent with this act are hereby repealed.

APPROPRIATING SUMS RECEIVED FROM SALES OF SALINES.

LAWS 1828-29, P. 142
REVISED CODE, 1826-31.

DECEMBER 19, 1828.

AN ACT to amend and continue in force the act entitled "An Act concerning saline reserves, a penitentiary, and the improvement of certain navigable streams", approved 15th February, 1827.

SECTION 1. Be it enacted, etc.: That so much of the first section of said recited act, as requires the selection for water works, specified in said section, to be in

addition to the thirty thousand acres therein mentioned, be, and the same is hereby, repealed. So much of the 26th section of the act, to which this section is an amendment, as postpones the appropriation of one thousand dollars of the next avails of the sales, after twenty thousand dollars shall be realized, be, and the same is hereby, repealed; and the said sum of one thousand dollars shall be out of the next avails of said sale, after fifteen thousand dollars be realized.

SEC. 2. The commissioners, who are required by the eighteenth section of this act, to make their report to the present General Assembly, are authorized and required to make their report on the fifth day of the session of the next General Assembly.

SEC. 3. The report of Leonard White, John Black, and Benjamin Cummins, commissioners appointed by the first section of the act, to which this is an amendment, be, and the same is hereby, approved and confirmed: and the residue of said recited act, to which this is an amendment, is hereby declared to be in full force from and after the passage of this act.

SEC. 4. The sum of five hundred dollars of the avails of said sales is appropriated to the improvement of the state road across Cash River bottom, in Alexander county, to be expended under the direction of Henry Sowers, William Price, and John Fisher.

GALLATIN COUNTY SALINE.

LAWS 1830-31, P. 165.

DECEMBER 25, 1830.

AN ACT to amend an act entitled "An Act regulating the Gallatin County Saline."

SECTION 1. Be it enacted, etc.: That the superintendent of the Gallatin county saline shall receive for his services, as superintendent, the sum of three hundred and fifty dollars per annum.

SEC. 2. So much of the act entitled, "An act regulating the Gallatin county saline," as relates to the salary of the superintendent, is hereby repealed.

MANUFACTURE OF SALT.

LAWS 1830-31, P. 162.

JANUARY 11, 1831.

REVISED CODE, 1830-31, P. 162.

AN ACT to encourage the manufacture of salt, and for the benefit of Conrad Will, and others.

SECTION 1. Be it enacted, etc.: That the Governor be, and he is hereby authorized to execute a lease to Conrad Will, of the Muddy Saline, free of rent, which lease shall end on the first day of December, 1840, and commence at the expiration of the lease granted to James Pearce.

SEC. 2. The superintendent of the Gallatin county saline is hereby authorized to permit any person, or persons, to enter upon any vacant lot of the said saline, or with leave hereafter to be granted by the lessee, upon any — occupied lot, and to dig there for salt water, committing no unnecessary waste; and if such person, or persons, shall succeed in the discovery of salt water of equal or greater strength than that now generally used at said saline, he or they shall be entitled to the exclusive right of boiling the same, and manufacturing salt therefrom, free of rent, for the period of ten years from the day the salt water is discovered, and shall moreover have sufficient timber, for fuel and other purposes, to carry on such manufacture for the period aforesaid.

SEC. 3. If any of the present lessees shall make new discoveries of salt water as above, they shall have the same rights and privileges in respect to such new discovered water as is granted above to other persons: provided, they shall com-

ply faithfully with the conditions of their existing leases, so far as shall relate to all other matters except new discoveries of salt water hereafter made.

SEC. 4. The said person, or persons, and old lessees aforesaid, shall at the expiration and end of their respective leases as aforesaid, surrender up to the state all the works and improvements so made, in good repair, except the metal used in boiling salt water: provided, that nothing in this act shall be so construed as to interfere with any of the rights or privileges belonging to the present lessees.

SEC. 5. The old lessees who do not make further discoveries of salt water, as aforesaid, may be permitted, to hold the lots now leased to them, until the first day of December, 1840, by their paying to the state, the same rent annually, that is now specified in their several leases.

SEC. 6. No person shall be entitled to the benefits of this act relative to newly discovered salt water, who shall dig for, and discover salt water, so near another well of good salt water, as to injure the quality or quantity of the same.

SEC. 7. Permission is hereby granted to any person, or persons, from and after the expiration of the lease of the big muddy saline, heretofore granted by the Governor of this state, to James Pearce, to enter upon the said saline reservation, and dig for salt water, and if such person, or persons, shall succeed in the discovery of said water, he or they shall be entitled to the exclusive right of boiling the same, and manufacturing salt therefrom, free of rent, for the term of ten years from the discovery of said water; or, with leave hereafter to be granted by the present lessee or lessees, of the said big muddy saline, any person or persons, may at any time after such leave given, enter upon the said saline reservation and dig for water as aforesaid, and in the event of his or their discovering the same, he or they shall be permitted to use the same for the manufacturing of salt, for the term aforesaid, free of rent.

VERMILLION SALINE.

LAWS 1830-31, P. 163.

JANUARY 28, 1831.

AN ACT concerning the Vermillion Saline.

SEC. 1. Be it enacted, etc., That John W. Vance, the present occupier of the Vermillion saline, shall have the use, occupancy and possession of said saline, the land included in the original lease to McCall, Treat, and others, and also one half section more, to be by him selected, for timber, free of rent, until the first day of January, 1833; provided, that said Vance shall give bond, with sufficient securities, during the present session of the Legislature, made payable to the Governor and his successors in office, for the use of the people of the state, in such penalty as the Governor shall direct, conditioned that he will go on and bore the present well, to the depth of 500 feet, make all the salt he possibly can, by reasonable exertions, committing no unnecessary waste of timber, and that he will give up to the state, peaceably, and without delay, at the expiration of said term, the lease so granted, with all the buildings and improvements of every nature and kind, in good repair, saving to himself, as his property absolutely, all the metal: which lands and improvements will then be unincumbered, and the property of the state.

SEC. 2. If said Vance shall not give bond with securities, as above stated, the Governor shall cause a final settlement to be made with said Vance, as contemplated in the original bond given by McCall, Treat, and others, on fair and equitable principles, deducting the sum which may be found due for the use of said works, from the 16th of December, 1829, until settlement shall be made, and in

order to effect the settlement, the Governor may appoint an agent, to act for the state, with general or special powers to act and close the concern with the said Vance, and to lease the works for a term not exceeding two years.

SEC. 3. In making selections by settlers on the Vermilion saline reserve, granted in the act passed for the benefit of John Powell and others, the same shall be made by legal divisions, north and south lines, as now observed by Congress; and said act shall not be construed to apply to sections 16 and 17, upon which the salt works are situated: No preemption right shall be given on said sections.

GALLATIN SALINE.

LAWS 1835-36, P. 263.

JANUARY 16, 1836.

AN ACT relating to the Gallatin Saline, and the Lands belonging to the same.

SEC. 1. Be it enacted, etc., That it shall be the duty of Tyler D. Hewitt, present commissioner of the Gallatin Saline, to make out an accurate map of the saline reserve, noting therein, by distinct shades, the amount of lands that have heretofore been directed to be sold and such as have not been directed to be sold. He shall also note on said map the particular section, or subdivision of a section that contains salt wells that have heretofore been used, or are now used for making salt, at said saline: and he shall moreover, procure a well bound book, in which he shall enter, in proper order, the lands that may remain the property of the state, after the land is taken out which has been already sold, or directed to be sold; all which he shall fully certify, with explanatory notes of said map, and a full description of land not directed to be sold.

SEC. 2. That John Crenshaw, Leonard White, Lee Hargrave, Joseph H. Hayes, William Hewitt, or a majority of them, be, and they are hereby appointed commissioners, to lay off, and report to said commissioner of the Gallatin Saline, as many lots of land, to be called saline lots, as they may think proper, not less than six, in said salines; which lots shall include the wells that are now affording salt water or that are under lease, each well now worked as aforesaid, to be a lot; and as there are wells not leased or used, as aforesaid, to lay off such other lots, including old wells, or prospects for salt water, as shall make up at least the number of six, as first above mentioned. The commissioners in this section, shall designate in said report, the lots of land, including the wells, that are now under lease, and those that are not. Said lots of land, so including wells and salt water prospects, as aforesaid, shall not consist of more than forty acres, but may be less, and may be made without regard to the lines of the United States' survey; in which latter case they shall report a plat and description of such new survey, so made, for the purposes aforesaid. The aforesaid commissioners, after laying off, and properly marking, by courses and distances, and planting permanent stones at the corner, and numbering the lots so as to be distinctly known, shall proceed to select and lay off, a lot of land to each, upon which there is stone coal, for fuel for such saline lots, numbering and describing such coal lot, and setting forth, distinctly to what saline lot it may belong; which said lots for water and coal, shall be sold, one for water, and one for coal, together. And at the Half Moon lick, (which by this act is contemplated to be divided into four parts,) the said commissioners shall lay off a tract of land around the saline lots, not exceeding six hundred and forty acres, outside of said lots, which shall forever remain as common, for salt making purposes, not more than one-eighth of which shall be acquired by any one proprietor of a saline lot, at any one time.

SEC. 3. That all the lands and saline lots mentioned in the foregoing section, shall be subject to sale in the manner, and under the restrictions hereinafter mentioned, that is to say: all those lands not included in any of the existing leases of any part of said saline, and all those saline lots, as mentioned in the preceding section, that are not included in any existing lease, shall be offered at public sale, after advertising the same, with proper description and designation thereof, in at least five public papers, that is to say: one in New York, one in Boston, one in Philadelphia, one in Cincinnati, and two in the state of Illinois, at least eight weeks, commencing at least three months before the day appointed by such advertisement for such sale; said advertisement shall designate the time and place of such sale. And on the day appointed as aforesaid, the "commissioners of the Gallatin Saline" shall first offer the land so advertised, beginning at the lowest number of township, range and section, and shall sell the same to the highest bidder; Provided, That any such bid shall not be less than fifty cents per acre. And after such sale as aforesaid, if any of said lands shall remain unsold, the same may be purchased at private entry, at fifty cents per acre. And after said lands shall be offered at public auction, as aforesaid, the said "commissioners of the Gallatin Saline" shall proceed to offer, at public auction, the saline lots, including wells, or salt water prospects, to the highest bidder; Provided, That if the said lots, last mentioned, shall not sell at such public auction they shall in no case be entered at private sale.

SEC. 4. That after the expiration of the year 1840, the lands now included in any lease, and the wells, or salt water prospects, belonging to any saline lot, as mentioned in the second section of this act, may be sold by the commissioners of the Gallatin Saline, in the manner prescribed in the third section of this act; or if the said lessees shall, at any time, relinquish their right by lease, to any of the lands included in any of their respective leases, the same may be sold as before prescribed; or if they, or any of the said lessees, shall surrender to the state their respective leases, of said saline, then the wells, or salt water prospects, on said lease, so surrendered, may be sold as before prescribed, under the same conditions and restrictions; Provided, That nothing herein contained, shall be so construed as to permit the present lessees to use or occupy any of the land included in their respective leases, for any purpose but the manufacture of salt, and all contracts or leases in relation thereto, by said lessees, shall be void, and shall not be enforced by any court or jurisdiction in this state.

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MANUFACTURE OF SALT AT GALLATIN SALINE.

LAWS 1840-41, P. 291.

DECEMBER 9, 1840.

AN ACT to provide for the manufacture of salt at the Gallatin Saline.

WHEREAS, The existing leases in the Gallatin Saline are about to expire on the first of December, 1840, and whereas, also, it is to be apprehended that salt making will altogether cease unless some legislative action is immediately had, and whereas, also, it is inexpedient that the wells and salt springs should at this time be put up to sale because that it might endanger the future manufacturing of salt at that saline for years to come to the great inconvenience of a large portion of the people of the state, therefore,

SEC. 1. Be it enacted, etc.: That the wells of salt water of the Gallatin Saline situate in the Half Moon heretofore occupied by Timothy Guard and Benjamin White under lease from the state and which expire on the first day of December 1840, be and the same are hereby leased to John Crenshaw, for and during

the full end and term of ten years, fully to be completed and ended, commencing on the second day of December in the year 1840, together with all the rights and appurtenances and a sufficient proportion of common appurtenant to the same as laid off in pursuance of an act of the Legislature passed January 16, 1836, together with the present pipe line, leading from the well now worked to the furnace, and there is also hereby granted to the said Crenshaw the right of way over any lands now owned by the state; and when the same passed over the lands of others and disagreement should arise the said Crenshaw shall have the same proceedings as in cases of right of way.

SEC. 2. In consideration of which grant in the foregoing section made, the said Crenshaw shall, on or before the 10th day of December 1840 execute a bond * * * conditioned, also, that he will well and truly manufacture salt at the said saline works and at all times, (unavoidable accidents not preventing), keep a sufficient quantity of salt on hand to supply all such persons of the neighboring country as purchase salt at said saline for domestic consumption whenever they shall apply at the work for the same; and conditioned, also, that he will at no time during his said lease charge or receive more than 62½¢ per bushel for said salt so manufactured; and conditioned, also, further, that he shall deliver at the end of the said ten years the said wells and the line of pipes in as good condition as they now are, without let or delay; and also, with the further condition, that he shall at no time, during the said lease enter into any scheme or bargain whereby the manufacture of salt shall be suspended or a monopoly accrue to the prejudice of any of the people of this state.

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JACKSON COUNTY SALINE.

LAWS 1840-41, P. 292.

FEBRUARY 26, 1841.

AN ACT to provide for leasing the Saline Reserve Land in Jackson County and for granting the preemption to certain persons therein named.

SEC. 1. Be it enacted, etc.: That David Halliday of Jackson County be and he is hereby appointed commissioner of the "Muddy Saline" in the aforesaid County of Jackson, to sell and dispose of a portion and to lease the residue of the lands in the saline reserve in the said county as hereinafter provided; and the said commissioner shall on or before the first day of May next enter into a bond, * * *

SEC. 2. The said commissioner, shall as soon as may be, have the said saline reserve lands subdivided by accurate survey into lots of suitable size not exceeding in any case forty acres; and shall cause to be made out from such survey a map or plat of such reserve, noting thereon the section contained and range of said lands, designate the said lots by number on the said plat, the said commissioner shall acknowledge and cause to be recorded in the record book of the recorder of the aforesaid county: Provided that the lot on which the salt well is situated shall not contain more than ten acres of land and that the said salt well shall be as near as practicable to the center of said lot.

* * * * *

SEC. 5. That if any person or persons shall be desirous to engage in any new discovery of salt water on said Big Muddy Reserve, it shall be the duty of said commissioner to authorize such person or persons to undertake the same, who, on making such discovery, shall be entitled under the provisions of this act to all the use, benefit and profits of such discovery in the manufactory of salt, free of charge or lease, for a term of ten years; at the end of which term such person or persons making such discovery shall surrender to the state all in-

terest and concern in such manufactory of salt that the said state could rightfully be entitled to expect as hereinafter provided by law.

SEC. 6. All timber or as much thereof as may be necessary with such other privileges and immunities as may belong to said reserve are hereby declared to be for the benefit of such lessee or lessees as may undertake the manufactory of salt, under the provisions of this act or to any person or persons who may engage in the discovery of salt water. * * *

GALLATIN COUNTY SALINE.

LAWS 1840-41, P. 294.

FEBRUARY 27, 1841.

AN ACT to amend an act entitled "An act relating to the Gallatin Salines and the lands belonging to the same," approved January 26 (16), A. D. 1836.

SEC. 1. Be it enacted, etc.: That William J. Gatewood of the County of Gallatin is hereby appointed commissioner for the purpose of carrying out the provisions of the act to which this is an amendment as well as the provisions of such acts in relation to the Gallatin Saline as are still in force and unrepealed.

SEC. 2. Said commissioner shall proceed to sell the lands belonging to said saline either at public sale, by giving previous public notice of the same, or by private entry, if it be more eligible, reserving whenever unsold, all salt water wells with the saline lots belonging to them, as well (as) the common attached to said lot.

SEC. 3. Said commissioner is hereby vested with full power to demand, sue for and recover all money due the state for the rents or sales of said salines or from commissioners or agents hereafter employed in relation to the same; and he is hereby required to proceed to recover all debts due to the state, on account of said salines for the purpose of making a final settlement of this matter. * * *

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SALE OF GALLATIN COUNTY SALINE RESERVE.

LAWS 1846-7, P. 114.

FEBRUARY 23, 1847.

AN ACT to authorize the Governor of this State to sell the salt wells and coal lands in the Saline Reserve, in Gallatin county, for State indebtedness, and for other purposes.

SECTION 1. Be it enacted, etc.: That it shall be the duty of the Governor of this State to cause to be sold at public auction, in Equality, in this State, to the highest bidder, for internal improvement bonds, or railroad scrip, (excluding the Macallister and Stebbins' bonds,) issued by authority of this State, all the salt wells, coal lands, and other lands in the Gallatin county "Saline reserve," not heretofore disposed of; and to make and execute proper and sufficient patents or deeds of conveyance to the purchaser or purchasers thereof: Provided, that he shall give notice of such sale for three months previous thereto in some public newspaper or newspapers in this State, and, also, in Pittsburg, Charlestown, Kanawha county, Virginia, Cincinnati, and Louisville: Provided, also, before said sale shall be advertised, the present lessee or lessees of said salt wells, and other lands, shall file their written surrender of their leases in the office of the auditor of this State, for the time unexpired since the first day of December last, from which time the said lessee or lessees shall be exonerated from the payment or rent by their bond or bonds subsequently accruing.

SEC. 2. Said salt wells, and lots connected therewith, and said coal lands and other lands belonging to the State within said reserve, shall be appraised by

commissioners to be appointed by the Governor, not exceeding three in number, who shall take an oath faithfully to value and appraise the said wells and lands in such State indebtedness, and to make a return thereof to the auctioneer or agent appointed by the Governor to sell the same, which shall be regarded as the minimum price of said wells and lands, below which they shall not be sold.

SEC. 3. The line of pipes and other fixtures belonging to the State, of whatever kind or description, shall, also, be appraised and sold as aforesaid.

SEC. 4. The wells and the lots set apart for the use of the same, the coal lands or lots, and the other lands owned by the State in the said "Saline reserve," shall be offered for sale and sold separately: Provided, that it shall be lawful to sell the pipes and other fixtures in connection with such well, or wells, or well lots, with which they may most properly and conveniently connect.

SEC. 5. That the school trustees of township number nine south, in range seven east, in consideration that the school section in said township was sold by the State as a part of the "Saline reserve," whereby said township possesses no school lands or township school fund whatever, shall be allowed to purchase at such sale, salt wells, coal lands, or other lands or property hereby authorized to be sold, to the value of one section of land, at Congress price, and the school trustees of township number nine south, in range number eight east, (which school section was also sold by the State as a part of the "Saline reserve," whereby the said last township possesses no school funds or township school fund whatever, except a half section granted to it by the State,) shall also be allowed to purchase at such sale such lands, or wells, or property, to the value of one half section of land, at Congress price. The Governor shall convey the same, without further consideration, to the trustees of said townships respectively, for the use of the inhabitants thereof, for the use of schools forever, and the same shall be held, and may be sold, or otherwise disposed of, like other school lands in this State.

SEC. 6. The agent to be appointed by the Governor under this act shall make return to the auditor of State of all his proceedings under this act, and shall grant certificates of purchase for each tract of land, etc., sold, which shall be sufficient evidence of purchase until patents are issued therefor.

SEC. 7. The Governor shall pay the expenses of carrying out the provisions of this act out of the contingent fund placed at his disposal by law.

SHOT FIRERS.

SHOT FIRERS—OPERATORS TO FURNISH.

FOR ANNOTATIONS SEE PAGE 303.

LAWS 1905, P. 328.

MAY 18, 1905.

AN ACT providing that operators of mines shall furnish shot firers in mines where shooting and blasting is (are) done.

SECTION 1. Be it enacted, etc.: In all mines in this State where coal is blasted, and where more than two pounds of powder is used for any one blast; and, also, in all mines in this State where gas is generated in dangerous quantities, a sufficient number of practical, experienced men, to be designated as shot firers, shall be employed by the company, and at its expense, whose duty it shall be to inspect and do all the firing of all blasts, prepared in a practical, workmanlike manner in said mine or mines.

SEC. 2. That shot firers shall, immediately after the completion of their work, post a notice in a conspicuous place at the mine, in which shall be indicated the number of shots fired; also the number of shots they did not fire, if any, specifying the number of the room and designation of the entry, and giving reasons for not firing same. In addition they shall also keep a daily permanent record in which shall be entered the number of shots or blasts fired, the number of shots or blasts failing to explode, and the number of shots or blasts that in their judgment were not properly prepared and which they refused to fire, giving reasons for same; the record to be in the custody of the mine manager and to be available for inspection at all times by parties interested.

SEC. 3. The superintendent or mine manager shall not permit the shot firers to do any blasting, exploding of blasts, or to do any firing whatever, until each and every miner and employe is out of the mine except the shot firers.

SEC. 4. Any wilful neglect, refusal or failure to do the things required to be done by any section, clause or provision of this act on the part of the person or persons herein required to do them, or any violation of any of the provisions or requirements hereof, or any attempt to obstruct or interfere with any person in the discharge of the duties herein imposed upon them, or any refusal to comply with the provisions of this act, shall be deemed a misdemeanor, punishable by a fine not less than one hundred dollars, and not to exceed two hundred dollars, or by imprisonment in the county jail for a period not exceeding three months, or both, at the discretion of the court: Provided, that whoever shall discover that any section of this act, or part thereof, is being neglected or violated shall report same to the superintendent of the mines and ask immediate compliance therewith; and in the case of continued failure to comply shall, through the State's attorney, or any other attorney in case of his failure to act promptly, take the necessary legal steps to enforce compliance therewith through the penalties herein prescribed. (Amended. See following Act.)

DUTIES OF SHOT FIRERS—FIRST AMENDATORY ACT.

LAWS 1907, P. 401.

MAY 20, 1907.

AN ACT to amend an Act entitled "An Act providing that operators of mines shall furnish shot firers in mines where shooting and blasting is done," approved May 18, 1905, in force July 1, 1905.

SECTION 1. Be it enacted, etc.: That an Act entitled "An Act providing that operators of mines shall furnish shot firers in mines where shooting and blasting is done," approved May 18, 1905, in force July 1, 1905, be and the same is amended to read as follows:

SEC. 2. In all mines in this State where coal is blasted, and where not more than two pounds of powder is used for any one blast; and also, in all mines in this State where gas is generated in dangerous quantities, a sufficient number of practical, experienced men to be designated as shot firers, shall be employed by the company and at its expense, whose duty it shall be to inspect and do all the firing of all blasts prepared in a practical, workmanlike manner in said mine or mines.

SEC. 3. The shot firers shall, immediately after the completion of their work, post a notice in a conspicuous place at the mine, in which shall be indicated the number of shots fired; also the number of shots they did not fire, if any, specifying the number of the room and designation of the entry, and giving reasons for not firing the same. In addition they shall also keep a daily permanent record in which shall be entered the number of shots or blasts fired, the number of shots or blasts failing to explode, and the number of shots or blasts that in their judgment were not properly prepared and which they refuse to fire, giving reasons for the same, the record to be in the custody of the mine manager and to be available for inspection at all times by parties interested.

SEC. 4. The superintendent or mine manager shall not permit the shot firers to do any blasting, exploding of shots, or do any firing whatever until each and every miner and employé is out of the mine except the shot firers, mine superintendent, mine manager and man or men necessarily engaged in charge of the pumps and stables: Provided, however, that nothing in this section shall be construed to prohibit the employment in such mine of a reasonably necessary number of men during such time for the purpose of securing the workings in case of fire therein.

SEC. 5. No miner or other person shall alter or change any drill hole, by increasing its depth, diameter or otherwise, after the same shall been approved by the shot firer.

SEC. 6. No shot firer, whether voluntarily, or by command or request of any person, shall fire any unlawful shot, or any shot which in his judgment, exercised as aforesaid, from his inspection thereof, made as aforesaid, shall not be a workmanlike, proper and practical shot.

SEC. 7. No person or persons shall order, command or induce by threats, or otherwise, any shot firer to fire any unlawful shot, or any shot which in his judgment, after due inspection, shall not be a workmanlike, proper and practical shot.

SEC. 8. Any wilful neglect, refusal or failure to do the things required to be done by any section, clause or provision of this Act on the part of the person or persons herein required to do them, or any violation of any of the provisions or requirements hereof, or any attempt to obstruct or interfere with any person in the discharge of the duties herein imposed upon them, or any refusal to comply with the provisions of this Act, shall be deemed a misdemeanor, punishable by a fine of not less than one hundred dollars and not to exceed two

hundred dollars, or by imprisonment in the county jail for a period not exceeding three months, or both, at the discretion of the court: Provided, that whoever shall discover that any section of this Act, or part thereof, is being neglected or violated shall report the same to the superintendent of the mines and ask immediate compliance therewith; and in case of continued failure to comply shall, through the State's attorney, or any other attorney, in case of his failure to act promptly, take the necessary legal steps to enforce compliance herewith, through and by means of the penalties herein prescribed.

DUTIES OF SHOT FIRERS—SECOND AMENDATORY ACT.

LAWS 1913, P. 442.

JUNE 27, 1913.

AN ACT to amend sections 2 and 7 of an Act entitled "An Act providing that operators of mines shall furnish shot firers in mines where shooting and blasting is done," approved May 18, 1905, in force July 1, 1905, as amended by Act approved May 20, 1907, in force July 1, 1907.

SECTION 1. Be it enacted, etc.: That sections 2 and 7 of an Act entitled "An Act providing that operators of mines shall furnish shot firers in mines where shooting and blasting is done," approved May 18, 1905, in force July 1, 1905, as amended by Act approved May 20, 1907, in force July 1, 1907, be and the same are hereby amended so as to read as follows:

SEC. 2. In all mines in this State where coal is blasted, and where more than two pounds of powder are used for any one blast; and, also, in all mines in this State where gas is generated in dangerous quantities, a sufficient number of practical, experienced miners, to be designated as shot firers, shall be employed by the company, and at its expense, whose duty it shall be to inspect and do all the firing of all blasts, prepared in a practical, workmanlike manner in said mine or mines.

SEC. 7. No person or persons shall order, command or induce by threat or otherwise, any shot firer to fire any unlawful shot, or any shot which in his judgment, after due inspection, shall not be a workmanlike, proper and practical shot.

No person shall drill or shoot a dead hole as hereinafter defined. A "dead hole" is a hole where the width of the shot at the point measured at right angles to the line of the hole is so great that the heel is not of sufficient strength to at least balance the resistance at the point. The heel means that part of the shot which lies outside of the powder.

ANNOTATIONS.

1. SHOT-FIRERS' ACT—NATURE AND VALIDITY.
2. SHOT FIRERS PROTECTED.
3. PURPOSE AND CONSTRUCTION OF AMENDATORY ACT.
4. ACTIONS FOR INJURIES OR DEATH.

1. SHOT-FIRERS' ACT—NATURE AND VALIDITY.

The act known as "shotfirers' act" is valid as covering the subject with which it purports to deal. The penalties provided by section 33 of the general act of 1899 relating to mines and miners can not be applied in case of violations of the shot-firers' act.

Hollingsworth v. Chicago & Carterville Coal Co., 243 Ill. 98, p. 106.

This act known as the "shot-firers' act" is no part of the general mines and miners' act. It can not be regarded as an amendment of the general act of 1899 relating to mines and miners, as it is not a compliance with the statu-

tory provision necessary to make it amendatory of that act. It does relate to matters which might properly have been included in the act of 1899 which permitted miners, workmen, or shot firers to explode shots under the conditions provided therein.

Hollingsworth v. Chicago & Carterville Coal Co., 243 Ill. 98, p. 104;

Hougland v. Avery Coal & Mining Co., 246 Ill. 609, p. 615.

See Kulvie v. Bunsen Coal Co., 253 Ill. 286.

By the act of 1905 the legislature has made it necessary for a mine operator to further classify his employees for the service heretofore required of the miner, that of shot firing. It is now the duty of the mine operator to employ a sufficient number of practically experienced men whose duties are to inspect and do all the firing of all blasts prepared in a practical, workmanlike manner. Shot firers are thus made a distinct class, experts as it were, and no more to be classed as miners within the meaning of the acts of 1879 and 1899.

Southern Coal & Min. Co. v. Hopp, 133 Ill. App. 239, p. 242.

2. SHOT FIRERS PROTECTED.

Shot firers employed under the authority of this act come within the protection of the general mining statute, and are entitled to recovery for injuries caused by the violation of the statute by the mine operator.

Stevenson v. Avery Coal & Min. Co., 143 Ill. App. 397, p. 399;

Stevenson v. Avery Coal & Min. Co., 152 Ill. App. 565, p. 571;

Davis v. Illinois Collieries Co., 232 Ill. 284, p. 290.

The provisions of section 16 (d) and section 20 (e) of the mines and miners' act (1899) apply only where the miners do their own firing, and have no application to shot firers employed and installed under this act.

Illinois Collieries Co. v. Davis, 137 Ill. App. 15, p. 20.

3. PURPOSE AND CONSTRUCTION OF AMENDATORY ACT.

The act of 1907 is an amendment of the shot-firers' act of 1905, and requires a sufficient number of practical, experienced men, to be designated as shot firers, to be employed in certain classes of mines, and whose duty it should be to instruct and do all the firing of all blasts prepared in the mine. Under this act the shot firer is to determine for himself whether the shot is prepared in a practical and workmanlike manner, and his judgment is conclusive on this question.

Kulvie v. Bunsen Coal Co., 253 Ill. 386, p. 388.

4. ACTIONS FOR INJURIES OR DEATH.

In an action for the death of a shot firer caused by an explosion due to an accumulation of gas and inflammable elements, a statement of the mine examiner as to the quantity of gas in the entry, made at a time when he was not there in the discharge of his duty, is not admissible in evidence, as such a statement is the mere declaration of an agent when not in the discharge of an act or duty he was authorized to do, and is therefore not admissible as a part of the *res gestae*.

Conover v. Harrisburg & Southern Coal Co., 161 Ill. App. 74, p. 77.

In an action for the death of a shot firer on the ground of the alleged violation of the statute by the mine operator, on account of his willful failure to have the entries, rooms, and galleries examined and the dangerous places

marked, in that dust, smoke, gas, and deleterious air accumulated in the mine, causing an explosion that resulted in the death of a shot firer, it is improper to admit evidence as to the condition of the entry and the accumulation of dust in the entry where the explosion occurred several days afterwards, where there was no evidence to show that conditions were the same as at the time of the explosion.

Conover v. Harrisburg & Southern Coal Co., 161 Ill. App. 74, p. 77.

In an action for the death of a shot firer caused by an explosion due to improper ventilation causing the accumulation of dust, gas, and other inflammable elements, it is proper to show that the entry and rooms where the explosion occurred were dusty and dry and a bad condition of the air current two or three days prior to the explosion. Such evidence tends to show conditions as to dust at the time of the explosion and to show notice to the mine operator of the dusty condition, and therefore a conscious violation of the statute.

Turner v. Manufacturers & Consumers Coal Co., 161 Ill. App. 534, p. 538.

In an action by a shot firer against a mine operator for damages for injuries resulting from a shot alleged to be caused by the failure of the operator to comply with the statute in failing to keep clear and in failing to see that a crosseut afforded the miner an unobstructed means of escape, a recovery can not be defeated on the ground that a shot firer himself wrongfully and unlawfully fired the shot that caused the injury.

Tomasi v. Donk Bros. Coal & Coke Co., 257 Ill. 70, p. 73.

See *Davis v. Illinois Collieries Co.*, 232 Ill. 284;

Brunnworth v. Kerens-Donnewald Coal Co., 20 Ill. 211;

Tomasi v. Donk Bros. Coal & Coke Co., 169 Ill. App. 47, p. 50.

TAXATION.

REAL PROPERTY AND CORPORATE STOCKS.

LAWS 1871-72, 1, PP. 3, 11.

MARCH 30, 1872.

AN ACT for the assessment of property and for the levy and collection of taxes.

SECTION 1. Be it enacted, etc.: That the property named in this section shall be assessed and taxed, except so much thereof as may be, in this act, exempted:

* * * * *

SEC. 4. RULES FOR VALUING REAL ESTATE. Real property shall be valued as follows:

* * * * *

Fourth. In valuing any real property on which there is a coal or other mine, or stone or other quarry, the same shall be valued at such a price as such property, including the mine or quarry, would sell at a fair, voluntary sale for cash.

* * * * *

SEC. 32. Banking, bridge, express, ferry, gravel road, gas, insurance, manufacturing, mining, * * * and all other companies and associations incorporated under the laws of this state (other than banks organized under the general banking laws of this state), shall, in addition to the other property required by this act to be listed, make out and deliver to the assessor a sworn statement of the amount of its capital stock, setting forth particularly—

First. The name and location of the company or association.

Second. The amount of capital stock authorized, and the number of shares into which such capital stock is divided.

Third. The amount of capital stock paid up.

Fourth. The market value, or if no market value, then the actual value of the shares of stock.

Fifth. The total amount of all indebtedness except the indebtedness for current expenses—excluding from such expenses the amount paid for the purchase or improvement of property.

Sixth. The assessed valuation of all its tangible property. Such schedule shall be made in conformity to such instructions and forms as may be prescribed by the auditor of public accounts. In all cases of failure or refusal of any person, officer, company or association to make such return or statement, it shall be the duty of the assessor to make such return or statement from the best information which he can obtain.

* * * * *

FIRST AMENDATORY ACT.

LAWS 1879, P. 251.

MAY 13, 1879.

AN ACT to amend sections three (3) and thirty-two (32) of an act entitled "An Act for the assessment of property, and for the levy and collection of taxes," approved March 30, 1872.

SECTION 1. Be it enacted, etc.: That section three (3) of an act entitled "An act for the assessment of property, and the levy and collection of taxes, approved March 30, 1872; in force July 1, 1872, be, and the same is, hereby so amended as to read as follows:

* * * * *

SEC. 2. That the thirty-second (32) section of said act is hereby so amended as to read as follows:

SEC. 32. Rules for listing and valuing property of banking and other corporations. Banking, bridge, express, ferry, gravel road, gas, insurance, mining, * * * and all other companies and associations incorporated under the laws of this State * * * shall in addition to the other property required by this act to be listed, make out and deliver to the assessor a sworn statement of the amount of its capital stock, setting forth particularly.

First. The name and location of the company or association.

Second. The amount of capital stock authorized, and the number of shares into which such capital stock is divided.

Third. The amount of capital stock paid up.

Fourth. The market value, or if no market value, then the actual value of the shares of stock.

Fifth. The total amount of all indebtedness, except the indebtedness for current expenses, excluding from such expenses the amount paid for the purchase or improvement of property.

Sixth. The assessed valuation of all its tangible property, such schedule shall be made in conformity to such instruction and forms as may be prescribed by the Auditor of Public Accounts. In all cases of failure or refusal of any person, officer, company or association to make such return or statement, it shall be the duty of the assessor to make such return or statement from the best information which he can obtain.

SECOND AMENDATORY ACT.

LAWS 1893, P. 172.

JUNE 19, 1893.

AN ACT to amend sections 3 and 32 of an act entitled "An act," etc. (as in section 1).

SECTION 1. Be it enacted, etc.: That sections 3 and 32 of an act for the assessment of property for the levy and collection of taxes, approved March 30, 1872, in force July 1, 1872, as amended by an act approved May 13, 1879, in force July 1, 1879, be amended to read as follows:

SECTION 3. Personal property shall be valued as follows:

* * * * *

Fourth. * * * Provided, further, that companies and associations organized for purely manufacturing purposes or for the mining and sale of coal, * * * shall be assessed by the local assessors in like manner as the property of individuals is required to be assessed.

SECTION 32. Bridges, express, ferry, gravel road, gas, insurance, mining, * * * and all other companies and associations incorporated under the laws of this State, other than banks organized under any special or general law of this State, and the corporations required to be assessed by the local assessors, as hereinbefore provided, shall, in addition to the other property required by

this act to be listed, make out and deliver to the assessor a sworn statement of the amount of its capital stock, setting forth particularly :

* * * * *

(Paragraphs 1-6 same as original and not changed by amendments.)

Whereas, Assessments are required to be made prior to July 1, 1893, therefor[e] an emergency exists, and this act shall take effect and be in force from and after its passage.

THIRD AMENDATORY ACT.

LAWS 1905, P. 353.

MAY 18, 1905.

AN ACT to amend sections 1, 3, 32, and 108 of an act entitled "An act for the assessment of property and for the levy and collection of taxes," approved March 30, 1872, in force July 1, 1872, as heretofore amended.

SECTION 1. Be it enacted, etc.: That sections 1, 3, 32, and 108 of an act entitled "An Act for the assessment of property and for the levy and collection of taxes," approved March 30, 1872, as heretofore amended, be, and the same are hereby amended so that the same shall read as follows:

SECTION 1. That the property named in this section shall be assessed and taxed except so much thereof as may be in this act exempted:

* * * * *

Fourth. The capital stock of companies and associations incorporated under the laws of this State, except companies and associations organized for purely manufacturing and mercantile purposes, or for either of such purposes, or for the mining and sale of coal. * * *

NOTE.—The original acts of which this is amendatory made no reference to mining and sale of coal.

SEC. 3. Personal property shall be valued as follows:

* * * * *

Fourth. The capital stock of all companies and associations now or hereafter created under the laws of this State, except companies and associations organized for purely manufacturing and mercantile purposes or for either of such purposes, or for the mining and sale of coal, * * * shall be so valued by the State Board of Equalization as to ascertain and determine, respectively, the fair cash value of such capital stock, including the franchise over and above the assessed value of the tangible property of such company or association, such board shall adopt such rules and principles for ascertaining the fair cash value of such capital stock as to it may seem equitable and just, and such rules and principles when so adopted, if not inconsistent with this act, shall be as binding and of the same effect as if contained in this act, subject, however, to such change, alteration or amendment as may be found from time to time, to be necessary by said board: Provided, that in all cases where the tangible property or capital stock of any company or association is assessed under this act, the shares of capital stock of such company or association shall not be assessed or taxed in this State. This clause shall not apply to the capital stock, or shares of capital stock of banks organized under the general banking laws of this State or under any special charter heretofore granted by the Legislature of this State.

SEC. 32. Bridges, express, ferry, gravel road, gas, insurance, mining, * * * and all other companies and associations incorporated under the laws of this State other than * * * companies and associations organized for purely manufacturing and mercantile purposes, or for either of such purposes, or for the mining and sale of coal, * * * shall in addition to the other

property required by this act to be listed, make out and deliver to the assessor a sworn statement of the amount of its capital stock, setting forth particularly:

First. (Clauses first-sixth, same as in Laws 1879) Page 382.

SEC. 108. The State Board of Equalization shall assess the capital stock of each company or association respectively now or hereafter incorporated under the laws of this State and which by this act are expressly required to be assessed by the State Board of Equalization in the manner hereinbefore in this act provided. But the State Board of Equalization shall not assess the capital stock of companies and associations organized for purely manufacturing and mercantile purposes or for either of such purposes, or for the mining and sale of coal. * * * The respective assessments so made (other than of the capital stock of railroad and telegraph companies) shall be certified by the Auditor, under direction of said board, to the county clerk of the respective counties in which such companies or associations are located, and said clerk shall extend the taxes for all purposes on the respective amounts so certified the same as may be levied on the other property in such towns, districts, villages or cities in which such companies or associations are located.

NOTE.—See Mining rights—Conveyance. Page 343.

WEIGHING COAL.

WEIGHT OF BUSHEL.

LAWS 1846-7, P. 168.

FEBRUARY 18, 1847.

AN ACT to fix the standard weight of coal.

SECTION 1. Be it enacted, etc.: That whenever mineral coal shall be sold by the bushel within the limits of this State, and no special agreement as to the weight or measurement shall be made by the parties, the bushel shall consist of eighty pounds, and this shall be the standard weight of a bushel of coal.

SEC. 2. This act to be in force from and after its passage.

WEIGHT OF BUSHEL.

LAWS 1855, P. 176.

FEBRUARY 14, 1855.

AN ACT to amend an act concerning weights and measures.

SECTION 1. Be it enacted, etc.: That whenever any of the following articles shall be contracted for, or sold, or delivered, and no special contract or agreement shall be made to the contrary, the weight per bushel shall be as follows, to wit: * * * stone coal, eighty (80) pounds * * *.

SEC. 2. All laws and parts of laws inconsistent with this act are hereby repealed.

NOTE.—The prior acts of which this is amendatory made no reference to coal. Subsequent amendatory acts make additions but no change as to coal.

WEIGHT OF BUSHEL.

ACT OF 1855 CODIFIED.

REVISED STATUTES (HURD), 1874, P. 1098.

FEBRUARY 27, 1874.

AN ACT to revise the law in relation to weights and measures.

SEC. 1. STANDARD.—Be it enacted, etc.: That the weights and measures received from the United States, and now in charge of the secretary of state, to-wit:

* * * * *

SEC. 7. WEIGHTS PER BUSHEL.—Whenever any of the following articles shall be contracted for, or sold or delivered, and no special contract or agreement shall be made to the contrary, the weight per bushel shall be as follows, to-wit: Stone coal, 80 pounds.

* * * * *

WEIGHING COAL AT MINES.

LAWS 1883, P. 113.

JUNE 14, 1883.

AN ACT to provide for the weighing of coal at the mines.

SECTION 1. Be it enacted, etc.: That the owner, agent or operator of each and every coal mine or colliery in this State shall furnish, or cause to be furnished, and placed upon the switch or railroad track adjacent to said coal mine or colliery, a "track scale" of standard manufacture, and shall weigh all coal hoisted from said mine or colliery before or at the time of being loaded on cars, wagons, or other vehicle of transportation: Provided, that in cases where track scales can not be used, or the product of such mine or colliery will not justify the expense of a track scale, the owner, agent or operator of same shall be permitted to furnish (in lieu of a track scale) a platform scale of sufficient capacity to weigh each box as it is hoisted from such mine or colliery.

SEC. 2. All coal produced in this State shall be weighed on the scales as above provided; and the weight so determined shall be considered the basis upon which the wages of persons mining said coal shall be computed.

SEC. 3. It shall be lawful for the miners employed in any coal mine or colliery in this State, to furnish a check weigher at their own expense, whose duty it shall be to balance said scales and see that the coal is properly weighed, and keep a correct account of same, and for this purpose he shall have access at all times to the "beam box" of said scale while such weighing is being performed. That the agent employed by persons mining coal, to act as check weighman, shall be an employe in the mines where the coal to be weighed was produced, (and) a citizen of the State and county wherein the mine is situated. He shall, on application to the owner, agent or operator of the mine producing the coal to be weighed, be furnished with a written permit, that shall entitle him to enter and remain in the room or place where the accounting by him of the weights of coal is to be done, and the said permit shall not be transferable: Provided, that the provisions of this act shall apply only to coal miners doing business on and shipping coal by railroad or by water.

SEC. 4. Any person, owner or agent, operating a coal mine or colliery in this State, who shall fail to comply with the provisions of this act, or any person who shall obstruct or hinder the carrying out of its requirements, shall be deemed guilty of a misdemeanor, and punished accordingly.

ANNOTATIONS.

1. VALIDITY OF STATUTE.
2. CONSTRUCTION AND PURPOSE OF STATUTE.
3. WEIGHT OF COAL AS BASIS OF WAGES.
4. FAILURE TO COMPLY—DEFENSE.

1. VALIDITY OF STATUTE.

This statute does not offend against the Constitution on the ground that in effect it deprives coal operators of the State of the power to make contracts to have coal mined except the wages of the persons mining coal be computed on the weight of the coal mined. It is not objectionable on the ground that mine operators are deprived of their property without due process of law.

Jones v. People, 110 Ill. 590, p. 593;

Millet v. People, 117 Ill. 294, p. 298;

Whitebreast Fuel Co. v. People, 175 Ill. 51, p. 55.

See Reinecke v. People, 15 Ill. App. 241.

2. CONSTRUCTION AND PURPOSE OF STATUTE.

This is a penal statute and is to be construed strictly, and is neither to be extended by mere implication to either persons or things not brought within its provisions within the clear meaning and intent.

Reinecke v. People, 15 Ill. App. 241, p. 244.

The reason of this enactment and the intent of the legislature is that the coal mined should be weighed, and the weight having been so determined, that weight should be considered the basis upon which the wages of persons mining the coal shall be computed and paid. The general assembly evidently considered that some wrong had been or might be done to persons mining the coal when the weight of the coal is taken as a basis of the payment for services rendered, and as a remedy for that wrong, either existing or in anticipation, the legislature provided for "track scales." This intent is further shown by the provision that the miners may select one of their own number as an "agent weigher," who may be present when the coal is weighed.

Reinecke v. People, 15, Ill. App. 241, p. 245.

3. WEIGHT OF COAL AS BASIS OF WAGES.

From all sections of the statute considered together, the purpose of the act appears to be for the protection of miners who are paid according to the weight of coal dug, the intention being to provide a correct basis in the determining of the weight upon which the wages of miners should be computed. The act does not apply where a contract is for the paying of wages in some other way than according to the weight of coal dug.

Jones v. People, 110 Ill. 590, p. 593.

Whitebreast Fuel Co. v. People, 175 Ill. 51, p. 54.

See Reinecke v. People, 15 Ill. App. 241.

The legislature intends the act to apply only to mines where the weight of the coal mined is taken as the basis for compensation to the miners. A court will not presume that the legislature intended that the operator of a coal mine should expend a thousand dollars for a "track scale" when not a person in the mine was interested in the weight of the coal mined. Neither was it intended that the coal miners at their own expense should employ one of their number to be present when the coal was weighed, keeping an account of the coal if the quantity of coal mined was wholly immaterial to them.

Reinecke v. People, 15 Ill. App. 241, p. 246.

Section 2 provides that the weight determined by weighing on the scales furnished shall be considered the basis upon which the wages of persons mining coal shall be computed, but this does not require that in all contracts for the mining of coal the wages of miners must be computed upon the basis of the weight of the coal mined. Such a provision would be arbitrary and would be an undue interference with the right of making contracts.

Jones v. People, 110 Ill. 590, p. 594;

Whitebreast Fuel Co. v. People, 175 Ill. 51, p. 55.

See Reinecke v. People, 15 Ill. App. 241.

4. FAILURE TO COMPLY—DEFENSE.

In a trial on an indictment against a defendant as operator of a coal mine for failure to put in scales as required by the statute the defendant may show as a defense that at and before the time the act took effect the corporation operating the coal mine had a contract with all the men employed to mine coal during

the period to receive as wages for their labor the sum of 40 cents per box for each box of coal mined and taken from the mine; that all persons employed by the mining company had always been and were then satisfied to work under such contract, and they did not desire the coal mined by them and taken from the mine to be weighed as a basis upon which to compute their wages, and they did not want to furnish a check weigher at their own expense to weigh the coal mined by them.

Jones v. People, 113 Ill. 584, p. 587;

Millet v. People, 117 Ill. 294, p. 298.

See Reinecke v. People, 15 Ill. App. 241.

WEIGHING COAL AT MINES—AMENDATORY ACT.

LAWS 1885, P. 221.

JUNE 29, 1885.

AN ACT to amend sections 2, 3 and 4 of an act entitled "An act to provide for the weighing of coal at the mines," approved June 14, 1883, in force July 1, 1883.

SECTION 1. Be it enacted, etc.: That sections 2, 3, and 4 of an act entitled "An act to provide for the weighing of coal at the mines," approved June 14, 1883, in force July 1, 1883, be amended so as to read as follows:

SEC. 2. All coal produced in this State shall be weighed on the scales as above provided, and a correct record kept of same in a well bound book furnished by the owner, agent or operator of such mine for that purpose, by a competent person, at the expense of such owner, agent or operator, said record to be subject to the inspection (at all reasonable business hours) of the miner, operator, carrier, land owner, adjacent land owner, members of the Bureau of Labor Statistics, mine inspectors and all others interested. The party weighing the coal and keeping such record shall be required, before entering upon his duties, to make and subscribe to an affidavit before some magistrate, or other officer authorized to administer oaths under the statute, to accurately weigh and faithfully keep a true record of all coal hoisted from such shaft; such affidavit to be placed on file with the mine inspector of his county or district, and any one knowingly or wilfully disregarding such oath or affidavit shall be regarded as a perjurer and punished accordingly.

SEC. 3. It shall be lawful for the miners employed in any coal mine or colliery in this State to furnish a check-weigher at their own expense, whose duty it shall be to balance said scales and see that the coal is properly weighed and keep a correct account of same, and for this purpose he shall have access at all times to the beam-box of said scale while such weighing is being performed. That the agent employed by persons mining coal to act as such check-weigher shall be a citizen of the State and county wherein the mine is situated, and shall, before entering upon his duties, make and subscribe to an affidavit, same as set forth in section 2 of this act, and shall be subject to the same penalty. He shall, on application to the owner, agent or operator of the mine producing the coal to be weighed, be furnished with a written permit that shall entitle him to enter and remain in the room or place where the accounting by him of the weights of coal is to be done, and the said permit shall not be transferable.

SEC. 4. Any person, owner or agent operating a coal mine or colliery in this State, who shall fail to comply with the provisions of this act, or any person who shall obstruct or hinder the carrying out of its requirements, shall be fined for the first offense not less than fifty (50) dollars; for the second offense not less than two hundred (200) dollars, and for the third offense not less than five hundred (500) dollars, or be imprisoned in the county jail not less than six months: Provided, that the provisions of this act shall apply only to coal mines doing business on, and shipping coal by railroad or by water.

SEC. 5. That all contracts for the mining of coal, in which the weighing of the coal as provided for in this act shall be dispensed with, shall be null and void.

ANNOTATIONS.

VALIDITY OF STATUTE.

The statute of June 29, 1885, requiring a coal-mine operator to furnish and place upon the tracks adjacent to his mine a track scale, and requiring that all coal produced should be weighed, and declaring all contracts for mining of coal in which the weighing of coal should be dispensed with should be null and void, is invalid and unconstitutional. It is not within the power of the legislature to compel a mine operator to pay miners solely by the weight of coal mined.

Millett v. People, 117 Ill. 94, p. 303;

Ramsey v. People, 142 Ill. 380, p. 386;

Braceville Coal Co. v. People, 147 Ill. 66, p. 72;

Harding v. People, 160 Ill. 459, p. 464.

The mining of coal is not affected with a public use and therefore specially regulated by law, like the business of an innkeeper, common carriers, millers, and other lines of business. The public are not compelled to resort to mine owners any more than they are compelled to resort to the owners of wood or turf or to the owners of grain, domestic animals, or to those owning any of the ordinary necessities or conveniences of life which are a part of the commerce of the country. The owner of a coal mine is under no obligation to obtain a license from any public authority, and he exercises no franchise when he chooses to mine his coal. The general assembly has no power to deny to persons in one line of business the privilege to contract for labor and to sell their products without regard to weight, while at the same time allowing to persons in all other lines of business this privilege, there being nothing in the business itself to distinguish it from any other kind of business. The owner or operator of a coal mine who shall contract for the mining of coal or the selling of coal by weight may by statute be required to procure scales for the weighing of coal. But the legislature can not compel a coal-mine operator to make all his contracts with reference to the mining and handling of the coal to be regulated by weight, and he can not by statute be compelled to buy and keep and use scales when he has no necessity for their use. The provisions of the act of 1885 do not relate to the safety or health of the miners, and are not a police regulation to promote that end, and it is in violation of the constitution.

Millet v. People, 117 Ill. 294, p. 303;

Ramsey v. People, 142 Ill. 380, p. 386;

Whitebreast Fuel Co. v. People, 175 Ill. 51, p. 54.

WEIGHING COAL AT MINES—REPEALING ACT.

LAWS 1887, P. 235.

JUNE 17, 1887.

AN ACT to provide for the weighing of coal at the mines, and to repeal a certain act therein named.

SECTION 1. Be it enacted, etc.: That the owner, agent or operator of every coal mine in this State at which the miners are paid by weight, shall provide at such mines suitable and accurate scales of standard manufacture, for the weighing of all coal, which shall be hoisted or delivered from such mines.

SEC. 2. (a) All coal so delivered from such mines shall be carefully weighed upon the scales as above provided, and a correct record shall be kept of the weight of each miner's car, which record shall be kept open at all reasonable hours for the inspection of all miners or others pecuniarily interested in the product of such mine.

(b) The person designated and authorized to weigh the coal and keep such record shall, before entering upon his duties, make and subscribe to an oath before some magistrate or other officer authorized to administer oaths, that he will accurately weigh and carefully keep a true record of all coal delivered from such mine, and such oath shall be kept conspicuously posted at the place of weighing.

SEC. 3. (a) It shall be lawful for the miners employed in any coal mine in this State to furnish a check-weighman at their own expense whose duty it shall be to balance the scales and see that the coal is properly weighed, and that a correct account of the same is kept; and for this purpose he shall have access at all times to the beam box of said scale, and be afforded facilities for the discharge of his duties while the weighing is being performed.

(b) The agent employed by the miners as aforesaid to act as checkweighman shall, before entering upon his duties, make and subscribe to an oath before some officer duly authorized to administer oaths, that he will faithfully discharge the duties of checkweighman; such oath shall be kept conspicuously posted at the place of weighing. (Section 3, amended June 16, 1891.)

SEC. 4. Any person, company or firm having or using any scale or scales for the purpose of weighing the output of coal at mines, so arranged or constructed that fraudulent weighing may be done thereby, or who shall knowingly resort to or employ any means whatsoever by reason of which such coal is not correctly weighed or reported in accordance with the provisions of this Act, or any weighman or checkweighman who shall fraudulently weigh or record the weights of such coal, or connive at or consent to such fraudulent weighing and recording shall be deemed guilty of a misdemeanor, and shall, upon conviction, for each such offense be punished by a fine of not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00), or by imprisonment in the county jail for a period not to exceed sixty (60) days, or by both such fine and imprisonment, proceedings to be instituted in any court of competent jurisdiction.

SEC. 5. Any person, owner or agent operating a coal mine in this State, who shall fail to comply with the provisions of this Act, or who shall obstruct or hinder the carrying out of its requirements, shall be fined for the first offense not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00); for the second offense not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00), and for the third offense not less than five hundred dollars (\$500.00), or to be imprisoned in the county jail not less than six months nor more than one year: Provided, that the provisions of this Act shall apply only to coal mines whose product is shipped by rail or water.

SEC. 6. That an Act entitled, "An Act to provide for the weighing of coal at the mines," approved June 14, 1883, in force July 1, 1883; as amended and approved June 29, 1885, in force July 1, 1885, be, and the same is hereby *repealed*.

(Repealed by act June 6, 1911. See page 229.)

ANNOTATIONS.

CONSTITUTIONALITY OF STATUTE.

The act of June 17, 1887, was amended by the act of June 16, 1891, to provide for the weighing of coal at the mines, and, like the original act, is unconstitutional as being in violation of section 2 of article 2 of the constitution.

Harding v. People, 160 Ill. 459, p. 466;

Ramsey v. People, 142 Ill., p. 380;

Whitebreast Fuel Co. v. People, 175 Ill. 51, p. 54.

CHECK WEIGHMEN—AMENDATORY ACT.

LAWS 1891, P. 170.

JUNE 16, 1891.

AN ACT to amend an act entitled "An act to provide for the weighing of coal at the mines, and to repeal a certain act therein named. (June 17, 1887.)"

SECTION 1. Be it enacted, etc.: That section 3 of an act entitled "An act to provide for the weighing of coal at the mines, and to repeal an act therein named," (approved June 17, 1887,) be amended to read as follows:

SEC. 3. It shall be lawful for the miners employed in any coal mine in this State to furnish a check weighman at their own expense, whose duty it shall be to balance the scales and see that the coal is properly weighed, and that a correct account of the same is kept, and for this purpose he shall have access at all times to the beam box of said scales and be afforded facilities for the discharge of his duties while the weighing is being performed. The agent employed by the miners as aforesaid to act as check weighman shall before entering upon his duties make and subscribe to an oath before some officer duly authorized to administer oaths, that he will faithfully discharge the duties of check weighman; such oath shall be kept conspicuously posted at the place of weighing.

ANNOTATIONS.

AMENDATORY ACT—VALIDITY.

The act of June 16, 1891, was an attempt to amend the act approved June 17, 1877, providing for the weighing of coal at mines. The purpose of the amendment was doubtless to avoid objections made to the original act. But the amendatory act is clearly in violation of section 2 of article 2 of the Constitution and is itself void.

Harding v. People, 160 Ill. 459, p. 462.

WEIGHING COAL IN GROSS.

LAWS 1891, P. 170.

JUNE 10, 1891.

AN ACT to provide for the weighing in gross of coal hoisted at mines.

SECTION 1. Be it enacted, etc.: That it shall be unlawful for any owner, agent or operator of any coal mine, whose miners are paid upon the basis of the quantity of coal which each shall mine and deliver to said employer, to take any portion of the same by any process of screening, or by any other device, without fully accounting for and crediting the same to the miner from whose output such portion is screened or taken.

SEC. 2. That all coal shall be weighed in the pit cars before being dumped into screens or chutes, two thousand pounds to the ton. A correct record shall be kept of the weight of each miner's car, which record shall be kept open at all reasonable times for the inspection of all miners or others pecuniarily interested in the product of such mine. The person authorized to weigh the coal and keep such record shall, before entering upon his duties, make and subscribe to an oath before some magistrate or other officer authorized to administer oaths that he will accurately weigh and carefully keep a true record of coal delivered from mines. This oath shall be kept conspicuously posted at the place of weighing.

SEC. 3. Any person, owner or agent operating a coal mine in this State, who shall fail to comply with the provisions of this act, shall be fined for the first offense, not less than twenty-five dollars (\$25) nor more than fifty dollars (\$50), for the second offense not less than one hundred dollars (\$100) nor more than two hundred dollars (\$200), and for the third offense be imprisoned in the county jail not less than six months nor more than one year.

ANNOTATIONS.

CONSTRUCTION AND VALIDITY OF STATUTE.

This statute attempts to take from both employer and employee engaged in the mining business, the right and power of fixing by contract the amount of wages the employee is to receive and the mode in which such wages are to be ascertained. The statute makes it imperative, where the miner is paid on the basis of the amount of coal mined, that the coal shall be weighed on the pit cars before being screened and the compensation shall be computed upon the weight of the unscreened coal. There is nothing in the business of coal mining which renders either the employer or employee less capable to contract in respect to wages than in any of the other branches of business, and the attempt on the part of the legislature to impose restrictions upon persons engaged in coal mining as to the power to contract as to wages, is repugnant to the constitutional limitation in that it deprives coal mine operators of the property right of making contracts, without due process of law.

Ramsey v. People, 142 Ill. 380, p. 385;

Whitebreast Fuel Co. v. People, 175 Ill. 51, p. 54.

This act not only singles out the operator of a mine and imposes restrictions and burdens upon him as to the use and enjoyment of his property that are not imposed upon other branches of business similarly situated and conducted, but it divides the operators of mines and only applies its provisions to those whose product is shipped in a certain manner. No possible reason for distinction affecting any interest justifying the division of mines made by the act has been suggested except that it might be intended to reach mines in which a large number of miners were employed. But this is not the division or distinction made and does not in any manner follow such division. It is not the language or purport of the act, but the act applies equally to the owner of a small mine, where the product may not exceed a carload per day and to the owner of the largest mine. The distinction between operators who sell their product at the mine to some shipper who ships it to market and those who themselves ship their coal by rail or by water is purely arbitrary and any reason that would apply to one calling for a restriction upon the manner of doing business, would be equally applicable to the other, and special burdens and restrictions upon one class not imposed upon the other constitute an arbitrary deprivation of rights. As the act makes that an offense if committed by the person engaged in one branch of mining which if done by persons of another branch of the same business is lawful, without any reason for distinction between the two, it must be regarded as unconstitutional.

Harding v. People, 160 Ill. 459, p. 465;

Whitebreast Fuel Co. v. People, 175 Ill. 51, p. 54;

Kellyville Coal Co. v. Harrier, 207 Ill. 624, p. 629.

SCALES AND WEIGHMAN.

LAWS 1899, P. 301.

APRIL 18, 1899.

AN ACT to revise the laws in relation to coal mines and subjects relating thereto, and providing for the health and safety of persons employed therein.

NOTE.—Section 24 only of this act is inserted here under the proper title. For the complete act see page 187.

WEIGHING AND WEIGHMAN.

SEC. 24. SCALES.—(a) The operator of every coal mine where miners are paid by the weight of their output, shall provide at such mine suitable and

accurate scales of standard manufacture for the weighing of such coal, and a correct record shall be kept of all coal so weighed, and said record shall be open at all reasonable hours to the inspection of miners and others interested in the product of said mine.

WEIGHMEN.—(b) The person authorized to weigh the coal and keep the record as aforesaid shall, before entering upon his duties, make and subscribe to an oath before some person duly authorized to administer oaths, that he will accurately weigh and carefully keep a true record of all coal weighed, and such affidavit shall be kept conspicuously posted at the place of weighing.

CHECK WEIGHMAN.—(c) It shall be permitted to the miners at work in any coal mine to employ a check-weighman at their option and at their own expense, whose duty it shall be to balance the scales and see that the coal is properly weighed, and that a correct account of the same is kept, and for this purpose he shall have access at all times to the beam box of said scales, and be afforded every facility for verifying the weights while the weighing is being done. The check-weighman so employed by the miners, before entering upon his duties, shall make and subscribe to an oath before some person duly authorized to administer oaths, that he will faithfully discharge his duties as check-weighman, and such oath shall be kept conspicuously posted at the place of weighing.

DUTY OF MINE OPERATORS AS TO WEIGHING COAL.

SEE page 48.

LAWS 1911, P. 338.

JUNE 6, 1911.

AN ACT to revise the laws in relation to coal mines and subjects relating thereto, and providing for the health and safety of persons employed therein.

NOTE.—Section 27 only of this act is inserted here under the appropriate title. For the complete act see page 212.

SEC. 27. SCALES.—(a) The operator of every coal mine where miners are paid by the weight of their output, shall provide at such mine suitable and accurate scales for the weighing of such coal, and a correct record shall be kept of all coal so weighed, and said record shall be open at all reasonable hours to the inspection of miners and others interested in the product of said mine.

WEIGHMAN.—(b) The person authorized to weigh the coal and keep the record as aforesaid shall, before entering upon his duties, make and subscribe to an oath before some person duly authorized to administer oaths, that he will accurately weigh and carefully keep a true record of all coal weighed, and such affidavit shall be kept conspicuously posted at the place of weighing.

CHECK WEIGHMAN.—(c) The miners at work in any coal mine may employ a check weighman at their option and at their own expense, whose duty it shall be to balance the scales and see that the coal is properly weighed, and that a correct account of the same is kept, and for this purpose he shall have access at all times to the beam box of said scales, and be afforded every facility for verifying the weights while the weighing is being done. The check weighman so employed by the miners, before entering upon his duties, shall make and subscribe to an oath before some person duly authorized to administer oaths, that he will faithfully discharge his duties as check weighman, and such oath shall be kept conspicuously posted at the place of weighing.

WORKMEN'S COMPENSATION ACT.

COMPENSATION FOR ACCIDENTAL INJURIES.

LAWS 1911, P. 315.

JUNE 10, 1911.

AN ACT to promote the general welfare of the People of this State, by providing compensation for accidental injuries or death suffered in the course of employment.
(Repealed. See pages 418, 458.)

SECTION 1. Be it enacted, etc.: That any employer covered by the provisions of this Act in this State may elect to provide and pay compensation for injuries sustained by any employe arising out of and in the course of the employment according to the provisions of this Act, and thereby relieve himself from any liability for the recovery of damages, except as herein provided. If, however, any such employer shall elect not to provide and pay the compensation to any employe who has elected to accept the provisions of this Act, according to the provisions of this Act he shall not escape liability for injuries sustained by such employe arising out of and in the course of his employment, because

1. The employe assumed the risks of the employer's business.

2. The injury or death was caused in whole or in part by the negligence of a fellow servant.

3. The injury or death was proximately caused by the contributory negligence of the employe, but such contributory negligence shall be considered by the jury in reducing the amount of damages.

a. Every such employer is presumed to have elected to provide and pay the compensation according to the provisions of this Act unless and until notice in writing of his election to the contrary is filed with the State Bureau of Labor Statistics.

b. Every employer within the provisions of this Act failing to file such notice shall be bound hereby as to all his employes who shall elect to come within the provisions of this Act until January 1st of the next succeeding year and for terms of each year thereafter: Provided, any such employer may elect to discontinue the payments of compensation herein provided only at the expiration of any such calendar year, by filing notice of his intention to discontinue such payments, with the State Bureau of Labor Statistics, at least sixty days prior to the expiration of any such calendar year, and by posting such notice in the plant, shop, office or place of work, or by personal service, in written or printed form, upon such employe, at least sixty days prior to the expiration of any such calendar year.

c. In the event any employer elects to provide and pay compensation provided in this Act, then every employe of such employer, as a part of his contract of hiring or who may be employed at the time of the taking effect of this Act and the acceptance of its provisions by the employer, shall be deemed to have accepted all the provisions of this Act and shall be bound thereby unless within thirty days after such hiring and after the taking effect of this Act, he shall file a notice to the contrary with the secretary of the State Bureau of Labor Statistics, whose duty it shall be to immediately notify the employer, and if so notified, the employer shall not be deprived of any of his common law or statutory defenses, and until such notice to the contrary is given to the em-

ployer, the measure of liability of the employer for any injury shall be determined according to the compensation provisions of this Act; Provided, however, that before any such employe shall be bound by the provisions of this Act, his employer shall either furnish to such employe personally at the time of his hiring, or post in a conspicuous place at the plant or in the room or place where such employe is to be employed, a legible statement of the compensation provisions of this Act.

SEC. 2. The provisions of this Act shall apply to every employer in the State engaged in the building, maintaining or demolishing of any structure; in any construction or electrical work; in the business of carriage by land or water and loading and unloading in connection therewith (except as to carriers who shall be construed to be excluded herefrom by the laws of the United States relating to liability to their employes for personal injuries while engaged in interstate commerce where such laws are held to be exclusive of all State regulations providing compensation for accidental injuries or death suffered in the course of employment); in operating general or terminal store-houses; in mining, surface mining, or quarrying; in any enterprise, or branch thereof, in which explosive materials are manufactured, handled or used in dangerous quantities; in any enterprise wherein molten metal or injurious gases or vapors or inflammable fluids are manufactured, used, generated, stored or conveyed in dangerous quantities; and in any enterprise in which statutory regulations are now or shall hereafter be imposed for the guarding, using or the placing of machinery or appliances, or for the protection and safe-guarding of the employes therein, each of which employments is hereby determined to be especially dangerous, in which from the nature, conditions and means of prosecution of the work therein, extraordinary risks to life and limb of the employe engaged therein are inherent, necessary or substantially unavoidable, and as to each of which employments it is deemed necessary to establish a new system of compensation for accidents to the employees therein. (Repealed. Page 458.)

SEC. 3. No common law or statutory right to recover damages for injury or death sustained by any employe while engaged in the line of his duty as such employe other than the compensation herein provided shall be available to any employe who has accepted the provisions of this Act or to any one wholly or partially dependent upon him or legally responsible for his estate: Provided, that when the injury to the employe was caused by the intentional omission of the employer, to comply with statutory safety regulations, nothing in this Act shall affect the civil liability of the employer. If the employer is a partnership, such omission must be that of one of the partners thereof, and if a corporation, that of any elective officer thereof.

SEC. 4. The amount of compensation which the employer who accepts the provisions of this Act shall pay for injury to the employe which results in death, shall be:

a. If the employe leaves any widow, child or children, or parents or other lineal heirs to whose support he had contributed within five years previous to the time of his death, a sum equal to four times the average annual earnings of the employe, but not less in any event than one thousand five hundred dollars, and not more in any event than three thousand five hundred dollars. Any weekly payments, other than necessary medical or surgical fees, shall be deducted in ascertaining such amount payable on death.

b. If the employe leaves collateral heirs dependent upon his earnings, such a percentage of the sum provided in section "a" as the contributions which deceased made to the support of these dependents, bore to his earnings.

c. If the employe leaves no widow or child or children, parents or lineral or collateral heirs dependent upon his earnings, a sum not to exceed one hundred and fifty dollars for burial expenses.

d. All compensation provided for in this section to be paid in case injury results in death, shall be paid in installments equal to one-half the average earnings, at the same intervals at which the wages or earnings of the employe were paid while he was living; or if this shall not be feasible, then the installments shall be paid weekly.

e. The compensation to be paid for injuries which result in death, as provided for in this section, shall be paid to the personal representative of the deceased employe and shall be distributed by such personal representative to the beneficiaries entitled thereto, in accordance with the laws of this State relating to the descent and distribution of personal property.

Sec. 5. The amount of compensation which the employer who accepts the provisions of this Act shall provide and pay for injury to the employe resulting in disability shall be:

a. Necessary first aid, medical, surgical and hospital services, also medicine and hospital services for a period not longer than eight weeks, not to exceed, however, the amount of \$200.00, also necessary services of a physician or surgeon during such period of disability, unless such employe elects to secure his own physician or surgeon.

b. If the period of disability lasts for more than six working days, and such fact is determined by the physician or physicians, as provided in section 9, compensation equal to one-half of the earnings, but not less than \$5.00 nor more than \$12.00 per week, beginning on the eighth day of disability and as long as the disability lasts, or until the amount of compensation paid equals the amount payable as a death benefit.

c. If any employe, by reason of any accident arising out of and in the course of his employment, receive any serious and permanent disfigurement to the hands or face, but which injury does not actually incapacitate the employe from pursuing his usual or customary employment so that it is possible to measure compensation in accordance with the scale of compensation and the methods of computing the same herein provided, such employe shall have the right to resort to the arbitration provisions of this Act for the purpose of determining a reasonable amount of compensation to be paid to such employe, but not to exceed one-quarter (¼) the amount of his compensation in case of death.

d. If after the injury has been received it shall appear upon medical examination as provided for in section 9, that the employe has been partially, though permanently incapacitated from pursuing his usual and customary line of employment, he shall receive compensation equal to one-half of the difference between the average amount which he earned before the accident, and the average amount which he is earning, or is able to earn in some suitable employment or business after the accident, if such employment is secured.

e. In the case of complete disability which renders the employe wholly and permanently incapable of work, compensation for the first eight years after the day the injury was received, equal to 50 per cent of his earnings, but not less than \$5.00 nor more than \$12.00 per week. If complete disability continues after the payment of a sum equal to the amount of the death benefit or after the expiration of the eight years, then a compensation during life, equal to 8 per cent of the death benefit which would have been payable had the accident resulted in death. Such compensation shall not be less than \$10.00 per month and shall be payable monthly.

(1) In case death occurs before the total of the payments made equals the amount payable as a death benefit, as provided in section 4, article a, then in case the employe leaves any widow, child or children, or parents, or other lineal heirs, they shall be paid the difference between the compensation for death and the sum of such payment, but in no case shall this sum be less than \$500.00.

(2) In cases of complete disability, after compensation has been paid at the specified rate for a term of at least six months, the employe shall have the privilege of filing a petition in accordance with article d of section 4 of this Act, asking for a lump sum payment of the difference between the sums of the payments received and the compensation to which he was entitled when such permanent disability has been definitely determined. For the purpose of this section, blindness or total irrecoverable loss of sight, the loss of both feet at or above the ankle, the loss of both hands at or above the wrist, the loss of one hand and one foot, an injury to the spine resulting in permanent paralysis of the legs or arms, and a fracture of the skull resulting in incurable imbecility or insanity, shall be considered complete and permanent disability: Provided, these specific cases of complete and permanent disability shall not, however, be construed as excluding other cases.

(3) In fixing the amount of the disability payments, regard shall be had to any payments, allowance or benefit which the employe may have received from the employer during the period of his incapacity, except the expenses of necessary medical or surgical treatment. In no event, except in cases of complete disability as defined above, shall any weekly payment payable under the compensation plan in this section provided exceed \$12.00 per week, or extend over a period of more than eight years from the date of the accident. In case an injured employe shall be incompetent at the time when any right or privilege accrues to him under the provisions of this Act, a conservator or guardian of the incompetent, appointed pursuant to law, may on behalf of such incompetent, claim and exercise any such right or privilege with the same force and effect as if the employe himself had been competent and had claimed or exercised said right or privilege; and no limitations of time by this Act provided, shall run so long as said incompetent employe had no conservator or guardian.

SEC. 5½. Any person entitled to compensation under this Act, or any employer who shall be bound to pay compensation under this Act, who shall desire to have such compensation, or any part thereof, paid in a lump sum, may petition any court of competent jurisdiction of the county in which the employe resided or worked at the time of disability or death, asking that such compensation be so paid, and if upon proper notice to the interested parties, and a proper showing made before such court, it appears to the best interest of the parties that such compensation be so paid, the court shall order payment of a lump sum, and where necessary, upon proper application being made, a guardian, conservator or administrator, as the case may be, shall be appointed for any person under disability who may be entitled to any such compensation, and an employer bound by the terms of this Act, and liable to pay such compensation, may petition for such appointment where no such legal representatives have been appointed or acting for such party or parties so under disability.

SEC. 6. The basis for computing the compensation provided for in sections 4 and 5 of the Act shall be as follows:

a. The compensation shall be computed on the basis of the annual earnings which the injured person received as salary, wages or earnings in the employment of the same employer during the year next preceding the injury.

b. Employment by the same employer shall be taken to mean employment by the same employer in the grade in which the employe was employed at the time of the accident, uninterrupted by absence from work due to illness or any other unavoidable cause.

c. The annual earnings if not otherwise determinable shall be regarded as 300 times the average daily earnings in such computation.

d. If the injured person has not been engaged in the employment for a full year immediately preceding the accident the compensation shall be computed according to the annual earnings which persons of the same class in the same or in neighboring employments of the same kind have earned during such period. And if this basis of computation is impossible, or should appear to be unreasonable, three hundred times the amount which the injured person earned on an average on those days when he was working during the year next preceding the accident, shall be used as a basis for the computation.

e. In the case of injured employes who earn either no wage or less than three hundred times the usual daily wage or earnings of the adult day laborers in the same line of industry of that locality, the yearly wage shall be reckoned as three hundred times the average daily local wage.

f. As to employes in employments in which it is the custom to operate for a part of the whole number of working days in each year, such number shall be used instead of three hundred as a basis for computing the annual earnings, provided the minimum number of days which shall be used for the basis of the year's work shall be not less than two hundred.

g. Earnings, for the purpose of this section, shall be based on the earnings for the number of hours commonly regarded as a day's work for that employment, and shall exclude overtime earnings. The earnings shall not include any sum which the employer has been accustomed to pay the employe to cover any special expense entailed on him by the nature of his employment.

h. In computing the compensation to be paid to any employe who before the accident for which he claims compensation, was disabled and drawing compensation under the terms of this Act, the compensation for each subsequent injury shall be apportioned according to the proportion of incapacity and disability caused by the respective injuries which he may have suffered.

Sec. 7. The compensation herein provided shall be the measure of the responsibility which the employer has assumed for injuries or death that may occur to employes in his employment subject to the provisions of this Act, and it shall not be in any way reduced by contributions from employees.

Sec. 8. If it is proved that the injury to the employe resulted from his deliberate intention to cause such injury, no compensation with respect to that injury shall be allowed.

Sec. 9. Any employe entitled to receive disability payments shall be required if requested by the employer to submit himself for examination at the expense of the employer to a duly qualified medical practitioner or surgeon selected by the employer, at a time and place reasonably convenient for the employe, as soon as practicable after the injury, and also one week after the first examination, and thereafter at intervals not oftener than once every four weeks, which examinations shall be for the purpose of determining the nature, extent and probable duration of the injury received by the employe, and for the purpose of adjusting the compensation which may be due the employe from time to time for disability according to the provisions of sections 4 and 5 of this Act: Provided, however, that such examination shall be made in the presence of a duly qualified medical practitioner or surgeon provided

and paid for by the employe, if such employe so desires, and in the event of a disagreement between said medical practitioners or surgeons as to the nature, extent or probable duration of said injury or disability, they may agree upon a third medical practitioner or surgeon, and, failing to agree upon such third medical practitioner or surgeon, the judge of the county court of the county where the employe resided or was employed at the time of the injury, shall within six days after petition filed in such court for that purpose, select a third medical practitioner or surgeon and the majority report of such three physicians as to the nature, extent and probable duration of such injury or disability shall be used for the purpose of estimating the amount of compensation payable under this Act. If the employe refuses so to submit himself to examination or unnecessarily obstructs the same, his right to compensation payments shall be temporarily suspended until such examination shall have taken place, and no compensation shall be payable under this Act during such period.

SEC. 10. Any question of law or fact arising in regard to the application of this law in determining the compensation payable hereunder shall be determined either by agreement of the parties or by arbitration as herein provided. In case any such question arises which can not be settled by agreement, the employe and the employer shall each select a disinterested party and the judge of the county court, or other court of competent jurisdiction, of the county where the injured employe resided or worked at the time of the injury, shall appoint a third disinterested party, such persons to constitute a board of arbitrators for the purpose of hearing and determining all such disputed questions of law or fact arising in regard to the application of this law in determining the compensation payable hereunder; and it shall be the duty of both employe and employer to submit to such board of arbitrators not later than ten days after the selection and appointment of such arbitrators all facts or evidence which may be in their possession or under their control relating to the questions to be determined by said arbitrators; and said board of arbitrators shall hear all the evidence submitted by both parties and they shall have access to any books, papers or records of either the employer or the employe showing any facts which may be material to the questions before them, and they shall be empowered to visit the place or plant where the accident occurred, to direct the injured employe to be examined by a regular practicing physician or surgeon, and to do all other acts reasonably necessary for a proper investigation of all matters in dispute. A copy of the report of the arbitrators in each case shall be prepared and filed by them with the State Bureau of Labor Statistics, and shall be binding upon both the employer and employe except for fraud and mistake: Provided, that either party to such arbitration shall have the right to appeal from such report or award of the arbitrators to the circuit court or the court that appointed the third arbitrator of the county where the injury occurred by filing a petition in such court within twenty days after the filing of the report of the arbitrators, and upon filing a good and sufficient bond, in the discretion of the court, and upon such appeal the questions in dispute shall be heard de novo, and either party may have a jury upon filing a written demand therefor with his petition.

SEC. 11. Any person entitled to payment under the compensation provisions of this Act from any employer shall have the same preferential claim therefor against the property of the employer as is now allowed by law for a claim by such person against such employer for unpaid wages or for personal services, such preference to prevail against wage claims of all other employes, not entitled to compensation for injuries, and the payments due under such com-

compensation provisions shall not be subject to attachment, levy, execution, garnishment or satisfaction of debts, except to the same extent and in the same manner as wages or earnings for personal service are now subject to attachment, levy, execution, garnishment or satisfaction of debts, under the laws of this State, and shall not be assignable. Any right to receive compensation hereunder shall be extinguished by the death of the person or persons entitled thereto, subject to the provisions of this Act relative to compensation for death received in the course of employment. No claim of any attorney at law for services in securing a recovery under this Act shall be an enforceable lien thereon unless the amount of the same be approved in writing by a judge of a court of record, which approval may be made in term time or vacation.

SEC. 12. Any contract or agreement made by any employer or his agent or attorney with any employe or any other beneficiary of any claim under the provisions of this Act within seven days after the injury shall be presumed to be fraudulent.

SEC. 13. No employe or beneficiary shall have power to waive any of the provisions of this Act in regard to the amount of compensation which may be payable to such employe or beneficiary hereunder.

SEC. 14. No proceedings for compensation under this Act shall be maintained unless notice of the accident has been given to the employer as soon as practicable after the happening thereof, and during such disability, and unless claim for compensation has been made within six months after the injury, except that in case of an accident resulting in temporary disability, notice of such accident must be given to the employer within thirty days after said accident; or in case of the death of the employe or in the event of his incapacity, within six months after such death or incapacity, or in the event that payments have been made under the provisions of this Act, within six months after such payments have ceased. No want or defect or inaccuracy of such notice shall be a bar to the maintenance of proceedings by arbitration or otherwise by the employe, unless the employer proves that he is unduly prejudiced in such proceedings by such want, defect or inaccuracy. Notice of the accident shall, in substance apprise the employer of the claim of compensation made and shall state the name and address of the employe injured, the approximate date and place of the accident, if known, and in simple language the cause thereof; which notice may be served personally or by registered mail, addressed to the employer at his last known residence or place of business: Provided, that the failure on the part of any person entitled to such compensation to give such notice shall not relieve the employer from his liability for such compensation, when the facts and circumstances of such accident are known to such employer or his agent, supervising work in which such employe was engaged at the time of the injury.

SEC. 15. This Act shall not affect or disturb the continuance of any existing insurance, mutual aid, benefit, or relief association or department, whether maintained in whole or in part by the employer or whether maintained by the employe, the payment of benefits of such association or department being guaranteed by the employer or by some person, firm or corporation for him: Provided, the employer contributes to such association or department an amount sufficient to insure the employe or other beneficiary the full compensation herein provided, exclusive of the cost of the maintenance of such association or department without any expense to the employe. This Act shall not prevent the organization and maintaining under the insurance law of this State of any benefit or insurance company for the purpose of insuring against the compensation provided for in this Act, the expense of which is maintained by the employer. This Act shall not prevent the organization or maintaining under

the insurance laws of this State of any voluntary mutual aid, benefit or relief association among employes for the payment of additional accident or sick benefits.

No existing insurance, mutual aid, benefit or relief association or department shall, by reason of anything herein contained, be authorized to discontinue its operation without first discharging its obligations to any and all persons carrying insurance in the same or entitled to relief or benefits therein.

Any contract of employment, relief benefit, or insurance or other device whereby the employe is required to pay any premium or premiums for insurance against the compensation provided for in this Act shall be null and void, and any employer withholding from the wages of any employe any amount for the purpose of paying any such premium shall be guilty of a misdemeanor and punishable by a fine of not less than ten dollars nor more than twenty-five dollars in each offense in the discretion of the court.

SEC. 16. Any person who shall become entitled to compensation under the provisions of this Act, shall, in the event of his inability to recover such compensation from the employer on account of his insolvency, be subrogated to all the rights of such employer against any insurance company or association which may have insured such employer against loss growing out of the compensation required by the provisions of this Act to be paid by such employer, and in such case only, a payment of the compensation that has accrued to the person entitled thereto in accordance with the provisions of this Act, shall relieve such insurance company from such liability. (Amended.)

SEC. 17. Where the injury for which compensation is payable under this Act was caused under circumstances creating a legal liability in some person, other than the employer, to pay damages in respect thereof:

a. The employe or beneficiary may take proceedings both against that person to recover damages and against the employer for compensation, but the amount of the compensation which he is entitled to under this Act shall be reduced by the amount of damages recovered.

b. If the employe or beneficiary has recovered compensation under this Act, the employer by whom the compensation was paid or the person who has been called upon to pay the indemnity under section 4 and 5 of this Act, may be entitled to indemnity from the person so liable to pay damages as aforesaid, and shall be subrogated to the rights of the employe to recover damages therefor.

SEC. 18. An agreement or award may, at any time after six months, and before eighteen months, from the date of filing, be reviewed, upon the application of either party, on the ground that the incapacity of the employe has subsequently increased or diminished. Such application shall be made to any court of competent jurisdiction; and unless the parties consent to arbitration, the court may appoint a medical practitioner to examine the employe and report upon his condition; and upon his report, and after hearing all the evidence the court may modify such agreement or award, as may be just, by ending, increasing or diminishing the compensation, subject to the limitations hereinbefore provided.

SEC. 19. It shall be the duty of every employer within the provisions of this Act to send to the secretary of the State Bureau of Labor Statistics in writing an immediate report of all accidents or injuries arising out of or in the course of the employment and resulting in death; it shall also be the duty of every such employer to report between the 15th and the 25th of each month to the secretary of the State Bureau of Labor Statistics all accidents or injuries for which compensation has been paid under this Act, which accidents or injuries

entail a loss to the employe of more than one week's time, and in case the injury results in permanent disability, such report shall be made as soon as it is determined that such permanent disability has resulted or will result from such injury. All such reports shall state the date of the injury, including the time of day or night, the nature of the employer's business, the age, sex, conjugal condition of the injured person, the specific occupation of the injured person, the direct cause of the injury and the nature of the accident, the nature of the injury, the length of disability and, in case of death, the length of disability before death, the wages of the injured person, whether compensation has been paid to the injured person, or to his legal representative or his heirs or next of kin, the amount of compensation paid, the amount paid for physicians', surgeons' and hospital bills, and by whom paid, and the amount paid for funeral or burial expenses, if known. The making of reports as provided herein shall release the employer covered by the provisions of this Act from making such reports to any other officer of the State.

SEC. 20. Any person, firm or corporation who undertakes to do or contracts with others to do, or have done for him, them or it, any work embraced in section 2 of this Act, requiring such dangerous employment of employes in, or about premises where he, they or it, as principal or principals, contract to do such work or any part thereof, and does not require that the compensation provided for in this Act shall be insured to the employe or beneficiary by any such person, firm or corporation undertaking to do such work and any such person, firm or corporation who creates or carries into operation any fraudulent scheme, artifice or device to enable him, them or it to execute such work without such person, firm or corporation being responsible to the employe or beneficiaries entitled to such compensation under the provisions of this Act, such person, firm or corporation shall be included in the term "employer" and with the immediate employer shall be jointly and severally liable to pay the compensation herein provided for, and be subject to all the provisions of this Act.

SEC. 21. The term "employe" as used in this Act shall be held to include only such persons as may be exposed to the necessary hazards of carrying on any employment or enterprise referred to in section 2 of this Act. Persons whose employment is of a casual nature and who are employed otherwise than for the purpose of the employers' trade or business, are not included in the foregoing definition.

SEC. 22. Section 21 shall not be construed to include any employee engaged in any work of an incidental character unconnected with the dangers necessarily involved in carrying on any employment or enterprise referred to in section 2, or in any work of a clerical or administrative nature which does not expose the employe to the inherent hazards of any such employment or enterprise.

SEC. 23. Any wilful neglect, refusal, or failure to do the things required to be done by any section, clause, or provision of this Act, on the part of the persons herein required to do them, or any violation of any of the provisions or requirements hereof, or any attempt to obstruct or interfere with any court officer, member of an arbitration board herein provided for, or with the secretary of the Bureau of Labor Statistics or his deputy, in the discharge of the duties herein imposed upon any of them, or any refusal to comply with the terms of this Act, shall be deemed a misdemeanor, punishable by a fine of not less than \$10.00 nor more than \$500, at the discretion of the court.

SEC. 23½. The right of action for damages caused by any such injury, at common law or other statute in force prior to the taking effect hereof shall

not be affected by this Act and every existing right of action for negligence or to recover damages for injury resulting in death, is continued and nothing in this Act shall be construed as limiting the right of such action so accrued before the taking effect of this Act.

SEC. 24. The invalidity of any portion of this Act shall in no way affect the validity of any other portion thereof which can be given effect without such invalid part.

SEC. 25. This Act shall take effect and be in force on and after the 1st day of May, 1912. (See following act.)

WORKMEN'S COMPENSATION—SECOND GENERAL ACT.

LAWS 1913, P. 337.

JUNE 28, 1913.

AN ACT To promote the general welfare of the people of this State by providing compensation for accidental injuries or death suffered in the course of employment within this State; providing for the enforcement and administering thereof, and a penalty for its violation, and repealing an Act entitled, "An Act to promote the general welfare of the people of this State by providing compensation for accidental injuries or death suffered in the course of employment," approved June 10, 1911, in force May 1, 1912.

(Sections 3, 7, 8, 9, 12, 13, 14, 16, 19, 21, and 26 amended. See page 418.)

(Sections 2, 3, 5, 7, 8, 13, 14, 16, 19, and 31 amended. See pages 445, 455.)

SECTION 1. That any employer in this State may elect to provide and pay compensation for accidental injuries sustained by any employee arising out of and in the course of the employment according to the provisions of this act, and thereby relieve himself from any liability for the recovery of damages, except as herein provided.

(a) Election by an employer to provide and pay compensation according to the provisions of this act shall be made by the employer filing notice of such election with the Industrial Board.

(b) Every employer within the provisions of this act who has elected to provide and pay compensation according to the provisions of this act shall be bound thereby as to all his employees covered by this act until January 1st of the next succeeding year and for terms of each year thereafter: Provided, Any such employer may elect not to provide and pay the compensation herein provided for accidents resulting in either injury or death and occurring after the expiration of any such calendar year by filing notice of such election with the Industrial Board at least sixty days prior to the expiration of any such calendar year, and by posting such notice at a conspicuous place in the plant, shop, office, room, or place where such employee is employed, or by personal service, in written or printed form, upon such employee, at least sixty days prior to the expiration of any such calendar year.

(c) In the event any employer elects to provide and pay the compensation provided in this act, then every employee of such employer, as a part of his contract of hiring or who may be employed at the time of the taking effect of this act and the acceptance of its provisions by the employer, shall be deemed to have accepted all the provisions of this act and shall be bound thereby unless within thirty days after such hiring or after the taking effect of this act, and its acceptance by the employer, he shall file a notice to the contrary with the Industrial Board, whose duty it shall be to immediately notify the employer, and if so notified, the employer shall not be deprived of any common law or statutory defenses existing but for this act; and until such notice to the contrary is given to the employer, the measure of liability of the employer shall be determined according to the compensation provisions of this act: Provided, however, That any employee may withdraw from the operation of this act

upon filing a written notice of withdrawal at least ten days prior to January 1st of any year with the Industrial Board, whose duty it shall be to immediately notify the employer by registered mail, and, if so notified, the employer shall not be deprived of any common law or statutory defenses existing but for this act, and until such notice to the contrary is given to the employer the measure of liability of the employer shall be determined according to the compensation provisions of this act.

(d) Any employer or employee may, without prejudice to any existing right or claim, withdraw his election to reject this act by giving thirty days' written notice in such manner and form as may be provided by the Industrial Board. (Amended. See page 455.)

SEC. 2. Every employer enumerated in section 3, paragraph (b), shall be conclusively presumed to have filed notice of his election as provided in section 1, paragraph (a), and to have elected to provide and pay compensation according to the provisions of this act, unless and until notice in writing of his election to the contrary is filed with the Industrial Board and unless and until the employer shall either furnish to his employee personally or post at a conspicuous place in the plant, shop, office, room, or place where such employee is to be employed, a copy of said notice of election not to provide and pay compensation according to the provisions of this act; which notice of nonelection, if filed and posted as herein provided, shall be effective until withdrawn; and such notice of nonelection may be withdrawn as provided in this act. (Repealed. Pages 455, 458.)

SEC. 3. (a) In any action to recover damages against an employer, engaged in any of the occupations, enterprises or businesses enumerated in paragraph (b) of this section, who shall elect not to provide and pay compensation to any employee, according to the provisions of this act, it shall not be a defense, that: First, the employee assumed the risks of the employment; second, the injury or death was caused in whole or in part by the negligence of a fellow servant; or third, the injury or death was proximately caused by the contributory negligence of the employee.

(b) The provisions of paragraph (a) of this section shall only apply to an employer engaged in any of the following occupations, enterprises or businesses, namely:

1. The building, maintaining, repairing or demolishing of any structure;
2. Construction, excavating or electrical work;
3. Carriage by land or water and loading and unloading in connection therewith;
4. The operation of any warehouse or general or terminal store houses;
5. Mining, surface mining or quarrying;
6. Any enterprise in which explosive materials are manufactured, handled or used in dangerous quantities;
7. In any enterprise wherein molten metal, or explosive or injurious gases or vapors, or inflammable vapors or fluids, or corrosive acids, are manufactured, used, generated, stored or conveyed in dangerous quantities;
8. In any enterprise in which statutory or municipal ordinance regulations are now or shall hereafter be imposed for the regulating, guarding, use or the placing of machinery or appliances, or for the protection and safeguarding of the employees or the public therein; each of which occupations, enterprises or businesses are hereby declared to be extrahazardous. (Amended. See pages 419, 455.)

SEC. 4. The term "employer" as used in this act shall be construed to be:

First. The State and each county, city, town, township, incorporated village, school district, body politic, or municipal corporation therein.

Second. Every person, firm, public or private corporation, including hospitals, public service, eleemosynary, religious, or charitable corporations or associations who has any person in service or under any contract for hire, express or implied, oral or written, and who, at or prior to the time of the accident to the employee for which compensation under this act may be claimed, shall in the manner provided in this act have elected to become subject to the provisions of this act, and who shall not, prior to such accident, have effected a withdrawal of such election in the manner provided in this act.

SEC. 5. The term "employee" as used in this act shall be construed to mean:

First. Every person in the service of the State, county, city, town, township, incorporated village, or school district, body politic, or municipal corporations therein, under appointment, or contract of hire, express or implied, oral or written, except any official of the State, or of any county, city, town, township, incorporated village, school district, body politic, or municipal corporation therein; and except any employee thereof for whose accidental injury or death arising out of and in the course of his employment compensation or a pension shall be payable to him, his personal representatives, beneficiaries, or heirs, from any pension or benefit fund to which the State, or any county, city, town, township, incorporated village, school district, body politic, or municipal corporation therein contributes in whole or in part: Provided, That one employed by a contractor who has contracted with the State, or a county, city, town, township, incorporated village, school district, body politic, or municipal corporation therein, through its representatives, shall not be considered as an employee of the State, county, city, town, township, incorporated village, school district, body politic, or municipal corporation which made the contract.

Second. Every person in the service of another under any contract of hire, express or implied, oral or written, including aliens, and minors who are legally permitted to work under the laws of the State, who, for the purpose of this act, shall be considered the same and have the same power to contract, receive payments and give quittances therefor, as adult employees, but not including any person whose employment is but casual or who is not engaged in the usual course of the trade, business, profession, or occupation of his employer: Provided, That employees shall not be included within the provisions of this act when excluded by the laws of the United States relating to liability of employers to their employees for personal injuries where such laws are held to be exclusive.

SEC. 6. No common law or statutory right to recover damages for injury or death sustained by any employee while engaged in the line of his duty as such employee other than the compensation herein provided shall be available to any employee who is covered by the provisions of this act, to any one wholly or partially dependent upon him, the legal representatives of his estate, or any one otherwise entitled to recover damages for such injury.

SEC. 7. The amount of compensation which shall be paid for an injury to the employee resulting in death shall be:

(a) If the employee leaves any widow, child or children whom he was under legal obligation to support at the time of his injury, a sum equal to four times the average annual earnings of the employee, but not less in any event than one thousand five hundred dollars and not more in any event than three thousand five hundred dollars. Any compensation payments other than necessary medical, surgical or hospital fees or services shall be deducted in ascertaining the amount payable on death.

(b) If no amount is payable under paragraph (a) of this section and the employee leaves any widow, child, parent, grandparent or other lineal heir, to whose support he had contributed within four years previous to the time of his

injury, a sum equal to four times the average annual earnings of the employee, but not less in any event than one thousand five hundred dollars and not more in any event than three thousand five hundred dollars. Any compensation payments other than necessary medical, surgical or hospital fees or services shall be deducted in ascertaining the amount payable on death.

(c) If no amount is payable under paragraph (a) or (b) of this section and the employee leaves collateral heirs dependent at the time of the injury to the employee upon his earnings, such a percentage of the sum provided in paragraph (a) of this section as the average annual contributions which the deceased made to the support of such collateral dependent heirs during the two years preceding the injury bears to his earnings during such two years.

(d) If no amount is payable under paragraph (a) or (b) or (c) of this section, a sum not to exceed one hundred and fifty dollars for burial expenses.

(e) All compensation except for burial expenses, provided for in this section to be paid in case injury results in death, shall be paid in installments equal to one-half the average earnings, at the same intervals at which the wages or earnings of the employee were paid; or if this shall not be feasible, then the installments shall be paid weekly: Provided, Such compensation may be paid in a lump sum upon petition as provided in section 9 of this act.

(f) The compensation to be paid for injury which results in death, as provided in this section, shall be paid at the option of the employer either to the personal representative of the deceased employee or to his beneficiaries, and shall be distributed to the heirs who formed the basis for determining the amount of compensation to be paid by the employer, the distributees' shares to be in the proportion of their respective dependency at the time of the injury on the earnings of the deceased: Provided, That, in the judgment of the court appointing the personal representative, a child's distributive share may be paid to the parent for the support of the child. The payment of compensation by the employer to the personal representative of the deceased employee shall relieve him of all obligation as to the distribution of such compensation so paid. The distribution by the personal representative of the compensation paid to him by the employer shall be made pursuant to the order of the court appointing him. (Amended. See page 419.)

SEC. 8. The amount of compensation which shall be paid to the employee for an injury not resulting in death shall be:

(a) The employer shall provide necessary first aid medical, surgical and hospital services; also medical, surgical and hospital services for a period not longer than eight weeks, not to exceed, however, the amount of \$200.00. The employee may elect to secure his own physician, surgeon or hospital services at his own expense.

(b) If the period of temporary total incapacity for work lasts for more than six working days, compensation equal to one-half the earnings, but not less than \$5.00 nor more than \$12.00 per week, beginning on the eighth day of such temporary total incapacity, and continuing as long as the temporary total incapacity lasts, but not after the amount of compensation paid equals the amount which would have been payable as a death benefit under paragraph (a), section 7, if the employee had died as a result of the injury at the time thereof, leaving heirs surviving as provided in said paragraph (a), section 7.

(c) For any serious and permanent disfigurement to the hands, head or face, the employee shall be entitled to compensation for such disfigurement, the amount to be fixed by agreement or by arbitration in accordance with the provisions of this Act, which amount shall not exceed one-quarter of the amount of the compensation which would have been payable as a death benefit under paragraph (a), section 7, if the employee had died as a result of the injury at the

time thereof, leaving heirs surviving, as provided in said paragraph (a), section 7: Provided, that no compensation shall be payable under this paragraph where compensation is payable under paragraphs (d), (e), or (f) of this section.

(d) If, after the injury has been sustained, the employee as a result thereof becomes partially, though permanently incapacitated from pursuing his usual and customary line of employment, he shall, except in the cases covered by the specific schedule set forth in paragraph (e) of this section, receive compensation, subject to the limitations as to time and maximum amounts fixed in paragraphs (b) and (h) of this section, equal to one-half of the difference between the average amount which he earned before the accident, and the average amount which he is earning or is able to earn in some suitable employment or business after the accident. In the event the employee returns to the employment of the employer in whose service he was injured, the employee shall not be barred from asserting a claim for compensation under this Act: Provided, notice of such claim is filed with the Industrial Board within eighteen months after he returns to such employment, and the said board shall immediately send to the employer by registered mail, a copy of such notice.

(e) For injuries in the following schedule, the employee shall receive in addition to compensation during the period of temporary total incapacity for work resulting from such injury, in accordance with the provisions of paragraphs (a) and (b) of this section, compensation, for a further period subject to the limitations as to time and amounts fixed in paragraphs (b) and (h) of this section, for the specific loss herein mentioned, as follows, but shall not receive any compensation under any other provisions of this Act.

For the loss of a thumb, or the permanent and complete loss of its use, fifty per centum of the average weekly wage during sixty weeks;

For the loss of a first finger, commonly called the index finger, or the permanent and complete loss of its use, fifty per centum of the average weekly wage during thirty-five weeks;

For the loss of a second finger, or the permanent and complete loss of its use, fifty per centum of the average weekly wages during thirty weeks;

For the loss of a third finger, or the permanent and complete loss of its use, fifty per centum of the average weekly wage during twenty weeks;

For the loss of a fourth finger, commonly called the little finger, or the permanent and complete loss of its use, fifty per centum of the average weekly wage during fifteen weeks;

The loss of the first phalange of the thumb, or of any finger, shall be considered to be equal to the loss of one-half of such thumb, or finger, and compensation shall be one-half the amounts above specified;

The loss of more than one phalange shall be considered as the loss of the entire finger or thumb: Provided, however, That in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand;

For the loss of a great toe, fifty per centum of the average weekly wage during thirty weeks;

For the loss of one or more of the toes other than the great toe, fifty per centum of the average weekly wage during ten weeks;

The loss of the first phalange of any toe shall be considered to be equal to the loss of one-half of such toe, and compensation shall be one-half of the amount above specified;

The loss of more than one phalange shall be considered as the loss of the entire toe;

For the loss of a hand, or the permanent and complete loss of its use, fifty per centum of the average weekly wage during one hundred and fifty weeks;

For the loss of an arm, or the permanent and complete loss of its use, fifty per centum of the average weekly wage during two hundred weeks;

For the loss of a foot, or the permanent and complete loss of its use, fifty per centum of the average weekly wage during one hundred and twenty-five weeks;

For the loss of a leg, or the permanent and complete loss of its use, fifty per centum of the average weekly wage during one hundred and seventy-five weeks;

For the loss of the sight of an eye, fifty per centum of the average weekly wage during one hundred weeks;

The loss of both hands or both arms, or both feet, or both legs, or both eyes, or of any two thereof, shall constitute total and permanent disability, to be compensated according to the compensation fixed by paragraph (f) of this section: Provided, That these specific cases of total and permanent disability shall not be construed as excluding other cases.

(f) In the case of complete disability which renders the employee wholly and permanently incapable of work, compensation equal to 50 per cent of his earnings, but not less than \$5.00, nor more than \$12.00 per week, commencing on the day after the injury and continuing until the amount paid equals the amount which would have been payable as a death benefit under paragraph (a), section 7, if the employee had died as a result of the injury at the time thereof, leaving heirs surviving, as provided in said paragraph (a), section 7, and thereafter a pension during life annually equal to 8 per cent of the amount which would have been payable as a death benefit under paragraph (a), section 7, if the employee had died as a result of the injury at the time thereof, leaving heirs surviving, as provided in said paragraph (a), section 7. Such pension shall not be less than \$10.00 per month and shall be payable monthly.

(g) In case death occurs as a result of the injury before the total of the payments made equals the amount payable as a death benefit, then in case the employee leaves any widow, child or children, parents, grandparents or other lineal heirs, entitled to compensation under section 7, the difference between the compensation for death and the sum of the payments, made to the employee shall be paid at the option of the employer either to the personal representative or the beneficiaries of the deceased employee and distributed, as provided in paragraph (f) of section 7, but in no case shall the amount payable under this paragraph be less than \$500.00.

(h) In no event shall the compensation to be paid exceed fifty per centum of the average weekly wage or exceed twelve dollars per week in amount; nor, except in cases of complete disability as defined above shall any payments extend over a period of more than eight years from the date of the accident. In case an injured employee shall be incompetent at the time when any right or privilege accrues to him under the provisions of this Act, a conservator or guardian may be appointed pursuant to law, and may, on behalf of such incompetent claim and exercise any such right or privilege with the same force and effect as if the employee himself had been competent and had claimed or exercised said right or privilege; and no limitations of time by this Act provided shall run so long as said incompetent employee is without a conservator or guardian.

(i) All compensation provided for in paragraphs (b), (c), (d), (e) and (f) of this section, other than cases of pension for life, shall be paid in installments at the same intervals at which the wages or earnings of the employee were paid at the time of the injury, or if this shall not be feasible, then the installments shall be paid weekly. (Amended. See page 420.)

SEC. 9. Any employer or employee or beneficiary, who shall desire to have such compensation, or any unpaid part thereof, paid in a lump sum, may petition the Industrial Board, asking that such compensation be so paid, and if upon proper notice to the interested parties and a proper showing made before such board, it appears to the best interest of the parties that such compensation be so paid, the board shall order the commutation of the compensation to an equivalent lump sum, which commutation shall be an amount which will equal the total sum of the probable future payments capitalized at their present value upon the basis of interest calculated at three per centum per annum with annual rests: Provided, that in cases indicating complete disability no petition for a commutation to a lump sum basis shall be entertained by the Industrial Board until after the expiration of six months from the date of the injury, and where necessary, upon proper application being made, a guardian, conservator or administrator, as the case may be, may be appointed for any person under disability who may be entitled to any such compensation, and an employer bound by the terms of this Act, and liable to pay such compensation, may petition for the appointment of the public administrator, or a conservator, or guardian where no legal representative has been appointed or is acting for such party or parties so under disability: Provided, further, that if the amount awarded as a lump sum settlement is not satisfactory to either party, such party may reject the same within ten days after notice of the award by filing his written rejection thereof with the said board in which event compensation shall be payable in installments as herein provided. (Amended. See page 423.)

SEC. 10. The basis for computing the compensation provided for in sections 7 and 8 of the act shall be as follows:

(a) The compensation shall be computed on the basis of the annual earnings which the injured person received as salary, wages, or earnings if in the employment of the same employer continuously during the year next preceding the injury.

(b) Employment by the same employer shall be taken to mean employment by the same employer in the grade in which the employee was employed at the time of the accident, uninterrupted by absence from work due to illness or any other unavoidable cause.

(c) If the injured person has not been engaged in the employment of the same employer for the full year immediately preceding the accident, the compensation shall be computed according to the annual earnings which persons of the same class in the same employment and same location (or if that be impracticable, of neighboring employments of the same kind) have earned during such period.

(d) As to employees in employments in which it is the custom to operate throughout the working-days of the year, the annual earnings, if not otherwise determinable, shall be regarded as 300 times the average daily earnings in such computation.

(e) As to employees in employments in which it is the custom to operate for a part of the whole number of working-days in each year, such number, if the annual earnings are not otherwise determinable, shall be used instead of 300 as a basis for computing the annual earnings: Provided, The minimum number of days which shall be so used for the basis of the year's work shall be not less than 200.

(f) In the case of injured employees who earn either no wage or less than the earnings of adult day laborers in the same line of employment in that locality, the yearly wage shall be reckoned according to the average annual earnings of adults of the same class in the same (or if that is impracticable then of neighboring) employments.

(g) Earnings, for the purpose of this section, shall be based on the earnings for the number of hours commonly regarded as a days' work for that employment, and shall exclude overtime earnings. The earnings shall not include any sum which the employer has been accustomed to pay the employee to cover any special expense entailed on him by the nature of his employment.

(h) In computing the compensation to be paid to any employee, who, before the accident for which he claims compensation, was disabled and drawing compensation under the terms of this act, the compensation for each subsequent injury shall be apportioned according to the proportion of incapacity and disability caused by the respective injuries which he may have suffered.

(i) To determine the amount of compensation for each installment period, the amount per annum shall be ascertained pursuant hereto, and such amount divided by the number of installment periods per annum.

SEC. 11. The compensation herein provided, together with the provisions of this act, shall be the measure of the responsibility which the employer has assumed for injuries or death that may occur to employees in his employment subject to the provisions of this act. (Amended. See page 455.)

SEC. 12. An employee entitled to receive disability payments shall be required, if requested by the employer, to submit himself at the expense of the employer for examination to a duly qualified medical practitioner or surgeon selected by the employer, at a time and place reasonably convenient for the employee, as soon as practicable after the injury, and also one week after the first examination, and thereafter at intervals not oftener than once every four weeks, which examination shall be for the purpose of determining the nature, extent and probable duration of the injury received by the employee, and for the purpose of ascertaining the amount of compensation which may be due the employee from time to time for disability according to the provisions of this act; Provided, however, That such examination shall be made in the presence of a duly qualified medical practitioner or surgeon provided and paid for by the employee if such employee so desires. If the employee refuses so to submit himself to examination or unnecessarily obstructs the same, his right to compensation payments shall be temporarily suspended until such examination shall have taken place, and no compensation shall be payable under this act for such period. (Amended. See page 423.)

SEC. 13. There is hereby created a board which shall be known as the Industrial Board, to consist of three members to be appointed by the governor, by and with the consent of the senate, one of whom shall be a representative citizen of the employing class operating under this act, and one of whom shall be a representative citizen chosen from among the employees operating under this act, and one of whom shall be a representative citizen not identified with either the employing or employee classes, and who shall be designated by the governor as chairman. Appointment of members to places on the first board, or to fill vacancies on said board may be made during recesses of the senate, but shall be subject to confirmation by the senate at the next ensuing session of the legislature. The term of office of members of this board shall be six years, except that when first constituted one member shall be appointed for two years, one for four years, and one for six years. Thereafter one member shall be appointed every second year for the full term of six years. Not more than two members of the board shall belong to the same political party. (Amended. See pages 424, 455.)

SEC. 14. The salary of each of the members of the board so appointed by the governor shall be \$4,000 per year. The board shall appoint a secretary and shall employ such assistants and clerical help as may be necessary. The board shall provide itself with a seal for the authentication of its orders, awards,

and proceedings, upon which shall be inscribed the words "Industrial board—Illinois—Seal." (Amended. See page 424.)

SEC. 15. The Industrial Board shall have jurisdiction over the operation and administration of this act, and said board shall perform all the duties imposed upon it by this act, and such further duties as may hereafter be imposed by law and the rules of the board not inconsistent therewith.

SEC. 16. The board may make rules and orders for carrying out the duties imposed upon it by law, which rules and orders shall be deemed *prima facie* reasonable and valid; and the process and procedure before the board shall be as simple and summary as reasonably may be. The board or any member thereof shall have the power to administer oaths, subpoena and examine witnesses, and to examine and inspect such books, papers and records, places or premises as may relate to questions in dispute. (Amended. See page 424.)

SEC. 17. The board shall cause to be printed and furnish free of charge upon request by any employer or employee such blank forms as it shall deem requisite to facilitate or promote the efficient administration of this act, and the performance of the duties of the board; it shall provide a proper record in which shall be entered and indexed the name of any employer who shall file a notice of declination or withdrawal under this act, and the date of the filing thereof; and a proper record in which shall be entered and indexed the name of any employee who shall file such a notice of declination or withdrawal, and the date of the filing thereof; and such other notices as may be required by the terms and intentment of this act; and records in which shall be recorded all proceedings, orders, and awards had or made by the board, or by the arbitration committees, and such other books or records as it shall deem necessary, all such records to be kept in the office of the board.

SEC. 18. All questions arising under this act, if not settled by agreement of the parties interested therein, shall, except as otherwise provided, be determined by the Industrial Board.

SEC. 19. Any disputed questions of law or fact upon which the employer and employee or personal representative can not agree, shall be determined as herein provided.

(a) It shall be the duty of the Industrial Board, upon notification that the parties have failed to reach an agreement, to notify both parties to appoint their respective representatives on a committee of arbitration. The board shall designate one of its members or an agent appointed by it and at its expense to act as chairman, and if either party fails to appoint its member on the committee within seven days after notification as above provided, the board shall appoint a person to fill the vacancy and notify the parties to that effect, and the reasonable expenses of the person so appointed to fill the vacancy shall, after approval by the board, be taxed as costs against the party who failed to appoint its member on such committee.

(b) The committee of arbitration shall make such inquiries and investigations as it shall deem necessary, and may examine and inspect all books, papers, records, places or premises relating to the questions in dispute. The hearings of the committee shall be held in the vicinity where the injury occurred, after ten days' notice of the time and place of such hearing shall have been given to each of the parties, and the decision of the committee shall be filed with the Industrial Board, which board shall immediately send to each party a copy of such decision, together with a notification of the time when it was filed, and unless a petition for a review is filed with the board by either party within fifteen days after the receipt by said party of the copy of such decision and notification of time when filed, and unless such party petitioning for review

shall, within twenty days of the filing of such decision, file with the board either an agreed statement of the facts appearing upon the hearing before the committee of arbitration, or, if such party shall so elect, a correct stenographic report of the proceedings at such hearing, then the decision shall be entered of record as the decision of the Industrial Board: Provided, that such Industrial Board may, for sufficient cause shown, grant further time in which to petition for such review or to file such agreed statement or stenographic report. An agreed statement of facts or correct stenographic report, as the case may be, shall be authenticated by the signatures of the parties or their attorneys and in the event they do not agree as to the correctness of the stenographic report it shall be authenticated by the signature of the chairman of the committee of arbitration.

(c) The Industrial Board may appoint, at its expense, a duly qualified, impartial physician, to examine the injured employee and report to the board. The fee for this service shall not exceed five dollars and traveling expenses, but the board may allow additional reasonable amount in extraordinary cases. The fees and the payment thereof of all attorneys and physicians for services authorized by the board under this Act, shall, upon request of either the employer or the employee or the beneficiary affected, be subject to the review and decision of the Industrial Board.

(d) If any employee shall persist in insanitary or injurious practices which tend to either imperil or retard his recovery or shall refuse to submit to such medical or surgical treatment as is reasonably essential to promote his recovery, the board may, in its discretion, reduce or suspend the compensation of any such injured employee.

(e) If a petition for review, and agreed statement of facts or stenographic report is filed, as provided herein, the Industrial Board shall promptly review the decision of the committee of arbitration and the facts as they appear from the said statement of facts or stenographic report, and shall also, if desired, hear the parties, together with such additional evidence as they may wish to submit. After such hearing upon review, the board shall announce and file in its office its decision thereon and shall immediately send to each party a copy of such decision, together with a notification of the time when it was filed. Such review and hearing may be held in its office, or elsewhere, as the board shall deem advisable. Any party may, within twenty days of the receipt by it of notice of the board's decision or within such further time as the board may grant, file with the board either an agreed statement of the facts appearing upon the hearing, or, if such party shall so elect, a correct stenographic report of the proceedings at the hearing, such statement of facts or stenographic report to be authenticated by the signatures of the parties or their attorneys, and in the event they do not agree then the authentication shall be by the signature of the chairman of the board. The statement of facts or stenographic report of the proceedings on the hearings before either the committee of arbitration or the Industrial Board shall, upon filing as hereinbefore provided, become part of the record of the proceedings of said board.

(f) The decision of the Industrial Board, acting within its powers, according to the provisions of paragraph (e) of this section, and of the committee of arbitration, where no review is had and its decision becomes the decision of the Industrial Board in accordance with the provisions of this section, shall, in the absence of fraud, be conclusive, but the Supreme Court shall have power to review questions of law involved in any such decision: Provided, that application is made by the aggrieved party within thirty days after notice given to him of such decision or within thirty days after the expiration of the time

allowed for filing the agreed statement of facts or stenographic report with said board, by certiorari, mandamus or by any other method permissible under the rules and practices of said court or the laws of this State.

The decision of any two members of a committee of arbitration, or of the industrial board, shall be considered the decision of such committee or board, respectively.

(g) Either party may present a certified copy of the decision of the industrial board, when no proceedings for review thereof have been taken, or of the decision of such committee of arbitration when no claim for review is made, or of the decision of the industrial board after hearing upon review, providing for the payment of compensation according to this act, to the circuit court of the county in which such accident occurred, whereupon such court shall render a judgment in accordance therewith; and in cases where the employer does not institute proceedings for review of the decision of the industrial board and refuses to pay compensation according to the award upon which such judgment is entered, the court shall, in entering judgment thereon, tax as costs against him the reasonable costs and attorney fees in the arbitration proceedings and in the court entering the judgment, for the person in whose favor the judgment is entered; which judgment, and costs, taxed as herein provided, shall, until and unless set aside, have the same effect as though duly rendered in an action duly tried and determined by said court, and shall, with like effect, be entered and docketed. The circuit court shall have power at any time, upon application, to make any such judgment conform to any modification required by any subsequent decision of the supreme court upon appeal, or as the result of any subsequent proceedings for review as provided in this act. Judgment shall not be entered until fifteen days' notice of the time and place of the application for the entry of judgment shall be served upon the employer by filing such notice with the industrial board; which board shall, in case it has on file the address of the employer or the name and address of its agent upon whom notices may be served, immediately send a copy of the notice to the employer or such designated agent; and no judgment shall be entered in the event the employer shall file with the said board its bond with good and sufficient surety in double the amount of the award conditioned upon the payment of said award in the event the said employer shall fail to prosecute with effect proceedings for review of the decision or the said decision upon review shall be affirmed.

(h) An agreement or award under this act, providing for compensation in installments, may at any time within eighteen months after such agreement or award, be reviewed by the industrial board at the request of either the employer or the employee on the ground that the disability of the employee has subsequently recurred, increased, diminished or ended; and on such review compensation payments may be reestablished, increased, diminished or ended: Provided, That the board shall give fifteen days' notice to the parties of the hearing for review: And, provided further, Any employee, upon any petition for such a review being filed by the employer, shall be entitled to one day's notice for each one hundred miles necessary to be traveled by him in attending the hearings of the board upon said petition, and three days' in addition thereto, and such employee shall, at the discretion of the board, also be entitled to five cents per mile necessarily traveled by him in attending such hearing, not to exceed a distance of 300 miles, to be taxed by the board as costs and deposited with the petition of the employer.

(i) Each party, upon taking any proceedings or steps whatsoever, before any committee of arbitration, industrial board or court, shall file with the industrial board his address or the name and address of an agent upon whom all notices to be given to such party shall be served either personally or by regis-

tered mail addressed to such party or agent at the last address so filed with the industrial board: Provided, That in the event such party has not filed his address or the name and address of an agent as above provided, service of any notice may be had by filing such notice with the industrial board. (Amended. See page 425.)

SEC. 20. The Industrial Board shall report in writing to the governor on the thirtieth day of June, annually, the details and results of its administration of this act, in accordance with the terms of this act, and may prepare and issue such special bulletins and reports from time to time as in the opinion of the board seems advisable.

SEC. 21. No payment, claim, award or decision under this Act shall be assignable or subject to any lien, attachment or garnishment, or be held liable in any way for any lien, debt, penalty or damages. In case of insolvency of the employer, every decision of the Industrial Board for compensation under this Act shall, upon the filing of a certified copy of the decision with the recorder of deeds of a county, constitute a lien upon all property of the employer within said county, paramount to all other claims, or liens except for wages and taxes, and mortgages or trust deeds, and such liens shall be enforced by order of the court. Any right to receive compensation hereunder shall be extinguished by the death of the person or persons entitled thereto, subject to the provisions of this Act relative to compensation for death received in the course of employment. (Amended. See page 428.)

SEC. 22. Any contract or agreement made by any employer or his agent or attorney with any employee or any other beneficiary of any claim under the provisions of this act within seven days after the injury shall be presumed to be fraudulent.

SEC. 23. No employee, personal representative, or beneficiary shall have power to waive any of the provisions of this act in regard to the amount of compensation which may be payable to such employee, personal representative, or beneficiary hereunder except after approval by the Industrial Board.

SEC. 24. No proceedings for compensation under this act shall be maintained unless notice of the accident has been given the employer as soon as practicable, but not later than 30 days after the accident. In cases of mental incapacity of the employee, notice must be given within six months after such accident. No defect or inaccuracy of such notice shall be a bar to the maintenance of proceedings by arbitration or otherwise by the employee, unless the employer proves that he is unduly prejudiced in such proceedings by such defect or inaccuracy. Notice of the accident shall in substance apprise the employer of the claim of compensation made and shall state the name and address of the employee injured, the approximate date and place of the accident, if known, and in simple language the cause thereof; which notice may be served personally or by registered mail, addressed to the employer at his last-known residence or place of business: Provided, That the failure on the part of any person entitled to such compensation to give such notice shall not relieve the employer from his liability for such compensation, when the facts and circumstances of such accident are known to such employer, his agent, or vice principal in the enterprise. No proceedings for compensation under this act shall be maintained unless claim for compensation has been made within six months after the accident, or in the event that payments have been made under the provisions of this act, unless written claim for compensation has been made within six months after such payments have ceased.

SEC. 25. Any employer against whom liability may exist for compensation under this act may, with the approval of the Industrial Board, be relieved therefrom by:

(a) Depositing the commuted value of the total unpaid compensation for which such liability exists, computed at three per centum per annum in the same manner as provided in section 9, with the State treasurer, or county treasurer in the county where the accident happened, or with any State or national bank or trust company doing business in this State, or in some other suitable depository approved by the Industrial Board: Provided, That any such depository to which such compensation may be paid shall pay the same out in installments as in this act provided, unless such sum is ordered paid in, and is commuted to, a lump sum payment in accordance with the provision of this act.

(b) By the purchase of an annuity, in an amount of compensation due or computed, under this act within the limitation provided by law, in any insurance company granting annuities and licensed or permitted to do business in this State, which may be designated by the employer or the Industrial Board.

Sec. 26. (a) An employer who elects to provide and pay the compensation provided for in this act shall within ten (10) days of receipt by the employer of a written demand by the industrial board (1) file with the board a sworn statement showing his financial ability to pay the compensation provided for in this act, normally required to be paid, or (2) furnish security, indemnity or a bond guaranteeing the payment by the employer of the compensation provided for in this act, normally required to be paid, or (3) insure to a reasonable amount his normal liability to pay such compensation in some corporation, association or organization authorized, licensed or permitted to do such insurance business in this State, or (4) make some other provision for the securing of the payment of compensation provided for in this act, normally required to be paid, and shall within twenty (20) days of the receipt of such written demand furnish to the board evidence of his compliance with one of the above alternatives: Provided, That the sworn statement of financial ability, or security, indemnity or bond, or amount of insurance or other provision, filed, furnished, carried or made by the employer, as the case may be, shall be subject to the approval of the board, upon the approval of which the board shall send to the employer written notice of its approval thereof: And provided, further, That demand shall not be made upon the employer by the board oftener than once in any calendar year.

(b) If no sworn statement or no security, indemnity or bond, or no insurance is filed, furnished or carried, or other provision made by the employer within ten (10) days of receipt by the employer of the written demand provided for in paragraph (a), or if the statement, security, indemnity, bond or amount of insurance filed, furnished or carried, or other provision made by the employer, as provided in paragraph (a), shall not be approved by the board, and written notice of such nonapproval shall be given to the employer and the employer shall not comply with one of the alternatives of paragraph (a) of this section within ten (10) days after the receipt by the employer of such written notice of nonapproval, then the employer shall be liable for compensation to any injured employee or his personal representative, according to the terms of this act, or for damages in the same manner as if the employer had elected not to accept this act, at the option of such employee or his personal representative: Provided, Such option is exercised and written notice thereof is given to the employer within thirty days after the accident to such employee, otherwise the employer shall be liable only for the compensation payable according to the provisions of this act: And, provided, further, That if at any time thereafter the employer shall comply with any of the alternatives of paragraph (a), then as to all accidents occurring after the said compliance, the employer shall only be liable for compensation according to the terms of this act.

(c) "Normal liability" and "normally required to be paid," whenever used herein, shall be measured by the experience, if any, of the said employer during the two years preceding the demand by the board, and if there is no such individual basis of experience, then by the general experience in the same industry, business, occupation or enterprise in the same neighborhood during the same period. (Amended. See pages 429, 455.)

SEC. 27. (a) This act shall not affect or disturb the continuance of any existing insurance, mutual aid, benefit, or relief association or department, whether maintained in whole or in part by the employer or whether maintained by the employees, the payment of benefits of such association or department being guaranteed by the employer or by some person, firm, or corporation for him: Provided, The employer contributes to such association or department an amount not less than the full compensation herein provided, exclusive of the cost of the maintenance of such association or department and without any expense to the employee. This act shall not prevent the organization and maintaining under the insurance laws of this State of any benefit or insurance company for the purpose of insuring against the compensation provided for in this act, the expense of which is maintained by the employer. This act shall not prevent the organization or maintaining under the insurance laws of this State of any voluntary mutual aid, benefit, or relief association among employees for the payment of additional accident or sick benefits.

(b) No existing insurance, mutual aid, benefit, or relief association or department shall, by reason of anything herein contained, be authorized to discontinue its operation without first discharging its obligations to any and all persons carrying insurance in the same or entitled to relief or benefits therein.

(c) Any contract, oral, written, or implied, of employment providing for relief benefit, or insurance or any other device whereby the employee is required to pay any premium or premiums for insurance against the compensation provided for in this act shall be null and void, and any employer withholding from the wages of any employee any amount for the purpose of paying any such premium shall be guilty of a misdemeanor and punishable by a fine of not less than ten dollars nor more than one thousand dollars, or imprisonment in the county jail for not more than six months, or both, in the discretion of the court.

SEC. 28. Any person, who shall become entitled to compensation under the provisions of this act, shall, in the event of his inability to recover such compensation from the employer on account of his insolvency, be subrogated to all the rights of such employer against any insurance company, association, or insurer which may have insured such employer against loss growing out of the compensation required by the provisions of this act to be paid by such employer, and, in such event only, the said insurance company, association, or insurer shall become primarily liable to pay to the employee or his personal representative the compensation required by the provisions of this act to be paid by such employer.

SEC. 29. Where an injury or death for which compensation is payable by the employer under this act was not proximately caused by the negligence of the employer or his employees, and was caused under circumstances creating a legal liability for damages in some person other than the employer to pay damages, such other person having also elected to be bound by this act, then the right of the employee or personal representative to recover against such other person shall be subrogated to his employer, and such employer may bring legal proceedings against such other person to recover the damages sustained, in an amount not exceeding the aggregate amount of compensation payable under this act, by reason of the injury or death of such employee. Where the

injury or death for which compensation is payable under this act was not proximately caused by the negligence of the employer or his employees and was caused under circumstances creating a legal liability for damages on the part of some person other than the employer to pay damages, such other person having elected not to be bound by this act, then legal proceedings may be taken against such other person to recover damages notwithstanding such employer's payment of or liability to pay compensation under this act, but in such case if the action against such other person is brought by the injured employee or his personal representative and judgment is obtained and paid, or settlement is made with such other person, either with or without suit, then from the amount received by such employee or personal representative there shall be paid to the employer the amount of compensation paid or to be paid by him to such employee or personal representative: Provided, That if the injured employee or his personal representative shall agree to receive compensation from the employer or to institute proceedings to recover the same or accept from the employer any payment on account of such compensation, such employer shall be subrogated to all the rights of such employee or personal representative and may maintain, or in case an action has already been instituted, may continue an action either in the name of the employee or personal representative or in his own name against such other person for a recovery of damages to which but for this section the said employee or personal representative would be entitled, but such employer shall nevertheless pay over to the injured employee or personal representative all sums collected from such other person by judgment or otherwise in excess of the amount of such compensation paid or to be paid under this act and all costs, attorneys' fees, and reasonable expenses incurred by such employer in making such collection and enforcing such liability. (Amended. See page 455.)

SEC. 30. It shall be the duty of every employer within the provisions of this act to send to the Industrial Board in writing an immediate report of all accidental injuries arising out of or in the course of the employment and resulting in death; it shall also be the duty of every such employer to report between the 15th and the 25th of each month to the Industrial Board all accidental injuries for which compensation has been paid under this act, which injuries entail a loss to the employee of more than one week's time, and in case the injury results in permanent disability, a further report shall be made as soon as it is determined that such permanent disability has resulted or will result from such injury. All reports shall state the date of the injury, including the time of day or night, the nature of the employer's business, the name, address, the age, sex, conjugal condition of the injured person, the specific occupation of the injured person, the direct cause of the injury and the nature of the accident, the character of the injury, the length of disability, and, in case of death, the length of disability before death, the wages of the injured person, whether compensation has been paid to the injured person, or to his legal representative or his heirs or next of kin, the amount of compensation paid, the amount paid for physicians', surgeons', and hospital bills, and by whom paid, and the amount paid for funeral or burial expenses, if known. The making of reports as provided herein shall release the employer covered by the provisions of this act from making such reports to any other officer of the State.

SEC. 31. Any person, firm, or corporation, who undertakes to do or contracts with others to do, or have done for him, them, or it any work enumerated as extra hazardous in paragraph (b) in section 3, requiring employment of employees in, on, or about the premises where he, they, or it as principal or prin-

contracts to do such work or any part thereof, and does not require of the person, firm, or corporation undertaking to do such work for said principal or principals, that such person, firm, or corporation undertaking to do such work shall insure his, their, or its liability to pay the compensation provided in this act to his, their, or its employees and any such person, firm, or corporation who creates or carries into operation any fraudulent scheme, artifice, or device to enable him, them, or it to execute such work without such person, firm, or corporation being responsible to the employee, his personal representative, or beneficiary entitled to such compensation under the provisions of this act, such person, firm, or corporation shall be included in the term "employer" and with the immediate employer shall be jointly and severally liable to pay the compensation herein provided for and be subject to all the provisions of this act.

SEC. 32. No right of action for damages at common law, or under any other statute existing at the time of the taking effect of this act shall be affected by this act.

If the provisions of this act relating to compensation for injuries to or death of employees shall be repealed or adjudged invalid or unconstitutional, the period intervening between the occurrence of an injury or death and such repeal or final adjudication of invalidity shall not be computed as a part of the time limited by law for the commencement of any action relating to such injury or death, but the amount of any compensation which may have been paid for any such injury shall be deducted from any judgment for damages recovered on account of such injury. Any claim, disagreement, or controversy existing or arising under "an act to promote the general welfare of the people of this State by providing compensation for accidental injuries or death suffered in the course of employment," approved June 10, 1911, in force May 1, 1912, shall be adjusted in accordance with the provisions of said act, notwithstanding the repeal thereof, or may by agreement of the parties be adjusted in accordance with the method of procedure provided in this act for the adjustment of differences, jurisdiction to adjust such differences so submitted by the parties being hereby conferred upon the Industrial Board or committee of arbitration provided for in this act. (Amended. See page 455.)

SEC. 33. Any willful neglect, refusal, or failure to do the things required to be done by any section, clause, or provision of this act on the part of the persons herein required to do them, or any violation of any of the provisions or requirements hereof, or any attempt to obstruct or interfere with any court officer or any other person charged with the duty of administering or enforcing the provisions of this act shall be deemed a misdemeanor, punishable by a fine of not less than \$10 nor more than \$500 at the discretion of the court.

SEC. 34. The invalidity of any portion of this act shall in no way affect the validity of any other portion thereof which can be given effect without such invalid part.

SEC. 35. That an act to promote the general welfare of the State of Illinois by providing compensation for accidental injuries or death suffered in the course of employment, approved June 10, 1911, in force May 1, 1912, be, and the same is hereby repealed.

WORKMEN'S COMPENSATION—AMENDATORY ACT.

LAWS 1915, P. 400.

JUNE 23, 1915.

AN ACT to amend section 3, section 7, section 8, section 9, section 12, section 13, section 14, section 16, section 19, section 21, and section 23 of an Act entitled "An Act," etc. (same as in section 1.) (Sections amended. See page 445.)

SECTION 1. Be it enacted, etc.: That section 3, section 7, section 8, section 9, section 12, section 13, section 14, section 16, section 19, section 21, and section 23

of an Act entitled, "An Act to promote the general welfare of the people of this State by providing the compensation for accidental injuries or death suffered in the course of employment within this State; providing for the enforcement and administering thereof, and a penalty for its violation, and repealing an Act entitled, 'An Act to promote the general welfare of the people of this State by providing compensation for accidental injuries or death suffered in the course of employment,' approved June 10, 1911, in force May 1, 1912," approved June 28, 1913, in force July 1, 1913, be amended and a new section, 33½, be added thereto so as to read as follows:

SEC. 3. (a) In any action to recover damages against an employer engaged in any of the occupations, enterprises, or businesses enumerated in paragraph (b) of this section, who shall elect not to provide and pay compensation to any employee, according to the provisions of this act, it shall not be a defense that: First, the employee assumed the risks of the employment; second, the injury or death was caused in whole or in part by the negligence of a fellow servant; or third, the injury or death was proximately caused by the contributory negligence of the employee.

(b) The provisions of paragraph (a) of this section shall only apply to an employer engaged in any of the following occupations, enterprises, or businesses, namely:

1. The building, maintaining, removing, repairing, or demolishing of any structure, except as provided in subsection 8 of this section;

2. Construction, excavating, or electrical work, except as provided in subsection 8 of this section;

3. Carriage by land or water and loading or unloading, in connection therewith;

4. The operation of any warehouse or general or terminal storehouses;

5. Mining, surface mining, or quarrying;

6. Any enterprise in which explosive materials are manufactured, handled, or used in dangerous quantities;

7. In any enterprise wherein molten metal, or explosive, or injurious gases or vapors, or inflammable vapors or fluids, or corrosive acids are manufactured, used, generated, stored, or conveyed in dangerous quantities;

8. In any enterprise in which statutory or municipal ordinance regulations are now or shall hereafter be imposed for the regulating, guarding, use, or the placing of machinery or appliances, or for the protection and safeguarding of the employees or the public therein; each of which occupations, enterprises, or businesses are hereby declared to be extra hazardous: Provided, Nothing contained herein shall be construed to apply to any work, employment, or operations done, had, or conducted by farmers and others engaged in farming, tillage of the soil, or stock raising, or to those who rent, demise, or lease land for any of such purposes, or to anyone in their employ or to any work done on a farm or country place, no matter what kind of work or service is being done or rendered. (Amended. See page 455.)

SEC. 7. The amount of compensation which shall be paid for an injury to the employee resulting in death shall be:

(a) If the employee leaves any widow, child, or children whom he was under legal obligation to support at the time of his injury, a sum equal to four times the average annual earnings of the employee, but not less in any event than one thousand six hundred fifty dollars and not more in any event than three thousand five hundred dollars. Any compensation payments other than necessary medical, surgical, or hospital fees or services shall be deducted in ascertaining the amount payable on death.

(b) If no amount is payable under paragraph (a) of this section and the employee leaves any widow, child, parent, grandparent, or other lineal heir to whose support he had contributed within four years previous to the time of his injury, a sum equal to four times the average annual earnings of the employee, but not less in any event than one thousand six hundred fifty dollars and not more in any event than three thousand five hundred dollars. Any compensation payments other than necessary medical, surgical, or hospital fees or services shall be deducted in ascertaining the amount payable on death.

(c) If no amount is payable under paragraph (a) or (b) of this section and the employee leaves collateral heirs dependent at the time of the injury to the employee upon his earnings, such a percentage of the sum provided in paragraph (a) of this section as the average annual contributions which the deceased made to the support of such collateral dependent heirs during the two years preceding the injury bears to his average annual earnings during such two years.

(d) If no amount is payable under paragraph (a) or (b) or (c) of this section, a sum not to exceed one hundred and fifty dollars for burial expenses.

(e) All compensation, except for burial expenses, provided for in this section to be paid in case injury results in death shall be paid in installments equal to one-half the average earnings at the same intervals at which the wages or earnings of the employee were paid, or if this shall not be feasible, then the installments shall be paid weekly: Provided, such compensation may be paid in a lump sum upon petition as provided in section 9 of this act.

(f) The compensation to be paid for injury which results in death, as provided in this section, shall be paid at the option of the employer either to the personal representative of the deceased employee or to his beneficiaries, and shall be distributed to the heirs who formed the basis for determining the amount of compensation to be paid by the employer, the distributees' share to be in the proportion of their respective dependency at the time of the injury on the earnings of the deceased: Provided, that, in the judgment of the court appointing the personal representative, a child's distributive share may be paid to the parent for the support of the child. The payment of compensation by the employer to the personal representative of the deceased employee shall relieve him of all obligations as to the distribution of such compensation so paid. The distribution by the personal representative of the compensation paid to him by the employer shall be made pursuant to the order of the court appointing him.

SEC. 8. The amount of compensation which shall be paid to the employee for an injury not resulting in death shall be:

(a) The employer shall provide necessary first aid, medical, surgical, and hospital services; also medical, surgical, and hospital services for a period not longer than eight weeks, not to exceed, however, the amount of \$200. The employee may elect to secure his own physician, surgeon, or hospital services at his own expense.

(b) If the period of temporary total incapacity for work lasts for more than six working-days, compensation equal to one-half the earnings, but not less than \$6 nor more than \$12 per week, beginning on the eighth day of such temporary total incapacity and continuing as long as the temporary total incapacity lasts, but not after the amount of compensation paid equals the amount which would have been payable as a death benefit under paragraph (a), section 7, if the employee had died as a result of the injury at the time thereof, leaving heirs surviving as provided in said paragraph (a), section 7.

(c) For any serious and permanent disfigurement to the hand, head, or face the employee shall be entitled to compensation for such disfigurement, the

amount to be fixed by agreement or by arbitration in accordance with the provisions of this act, which amount shall not exceed one-quarter of the amount of the compensation which would have been payable as a death benefit under paragraph (a), section 7, if the employee had died as a result of the injury at the time thereof, leaving heirs surviving, as provided in said paragraph (a), section 7: Provided, That no compensation shall be payable under this paragraph where compensation is payable under paragraphs (d), (e), or (f) of this section: And provided further, That when the disfigurement is to the hand, head, or face as a result of an injury, for which injury compensation is not payable under paragraphs (d), (e), or (f) of this section, compensation for such disfigurement may be had under this paragraph.

(d) If after the injury has been sustained the employee as a result thereof becomes partially incapacitated from pursuing his usual and customary line of employment, he shall, except in the cases covered by the specific schedule set forth in paragraph (e) of this section, receive compensation, subject to the limitations as to time and maximum amounts fixed in paragraphs (b) and (h) of this section, equal to one-half of the difference between the average amount which he earned before the accident and the average amount which he is earning or is able to earn in some suitable employment or business after the accident. In the event the employee returns to the employment of the employer in whose service he was injured, the employee shall not be barred from asserting a claim for compensation under this act: Provided, Notice of such claim is filed with the Industrial Board within eighteen months after he returns to such employment, and the said board shall immediately send to the employer, by registered mail, a copy of such notice.

(e) For injuries in the following schedule the employee shall receive in addition to compensation during the period of temporary total incapacity for work resulting from such injury, in accordance with the provisions of paragraphs (a) and (b) of this section, compensation for a further period, subject to the limitations as to time and amounts fixed in paragraphs (b) and (h) of this section, for the specific loss herein mentioned, as follows, but shall not receive any compensation under any other provision of this act:

For the loss of a thumb, or the permanent and complete loss of its use, fifty per centum of the average weekly wage during sixty weeks;

For the loss of a first finger, commonly called the index finger, or the permanent and complete loss of its use, fifty per centum of the average weekly wage during thirty-five weeks;

For the loss of a second finger, or the permanent and complete loss of its use, fifty per centum of the average weekly wage during thirty weeks;

For the loss of a third finger, or the permanent and complete loss of its use, fifty per centum of the average weekly wage during twenty weeks;

For the loss of a fourth finger, commonly called the little finger, or the permanent and complete loss of its use, fifty per centum of the average weekly wage during fifteen weeks;

The loss of the first phalange of the thumb, or of any finger, shall be considered to be equal to the loss of one-half of such thumb or finger, and compensation shall be one-half the amounts above specified;

The loss of more than one phalange shall be considered as the loss of the entire finger or thumb: Provided, however, That in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand;

For the loss of a great toe, fifty per centum of the average weekly wage during thirty weeks;

For the loss of one toe other than the great toe, fifty per centum of the average weekly wage during ten weeks, and for the additional loss of one or more toes other than the great toe, fifty per centum of the average weekly wage during an additional ten weeks;

The loss of the first phalange of any toe shall be considered to be equal to the loss of one-half of such toe, and compensation shall be one-half of the amount above specified;

The loss of more than one phalange shall be considered as the loss of the entire toe;

For the loss of a hand, or the permanent and complete loss of its use, fifty per centum of the average weekly wage during one hundred and fifty weeks;

For the loss of an arm, or the permanent and complete loss of its use, fifty per centum of the average weekly wage during two hundred weeks;

For the loss of a foot, or the permanent and complete loss of its use, fifty per centum of the average weekly wage during one hundred and twenty-five weeks;

For the loss of a leg, or the permanent and complete loss of its use, fifty per centum of the average weekly wage during one hundred and seventy-five weeks;

For the loss of the sight of an eye, fifty per centum of the average weekly wage during one hundred weeks;

The loss of both hands, or both arms, or both feet, or both legs, or both eyes, or of any two thereof, shall constitute total and permanent disability, to be compensated according to the compensation fixed by paragraph (f) of this section: Provided, That these specific cases of total and permanent disability shall not be construed as excluding other cases.

(f) In case of complete disability, which renders the employee wholly and permanently incapable of work, compensation equal to 50 per cent of his earnings, but not less than \$6 nor more than \$12 per week, commencing on the day after the injury and continuing until the amount paid equals the amount which would have been payable as a death benefit under paragraph (a), section 7, if the employee had died as a result of the injury at the time thereof, leaving heirs surviving, as provided in said paragraph (a), section 7, and thereafter a pension during life annually equal to 8 per cent of the amount which would have been payable as a death benefit under paragraph (a), section 7, if the employee had died as a result of the injury at the time thereof, leaving heirs surviving, as provided in said paragraph (a), section 7. Such pension shall not be less than \$10 per month and shall be payable monthly.

(g) In case death occurs as a result of the injury before the total of the payments made equals the amount payable as a death benefit, then in case the employee leaves any widow, child or children, parents, grandparents, or other blood heirs entitled to compensation under section 7, the difference between the compensation for death and the sum of the payments made to the employee shall be paid, at the option of the employer, either to the personal representative or to the beneficiaries of the deceased employee, and distributed as provided in paragraph (f) of section 7, but in no case shall the amount payable under this paragraph be less than \$500.

(h) In no event shall the compensation to be paid exceed fifty per centum of the average weekly wage or exceed \$12 per week in amount; nor, except in cases of complete disability as defined above, shall any payments extend over a period of more than eight years from the date of the accident. In case an injured employee shall be incompetent at the time when any right or privilege accrues to him under the provisions of this act, a conservator or

guardian may be appointed, pursuant to law, and may, on behalf of such incompetent, claim and exercise any such right or privilege with the same force and effect as if the employee himself had been competent and had claimed or exercised said right or privilege; and no limitations of time by this act provided shall run so long as said incompetent employe is without a conservator or guardian.

(i) All compensations provided for in paragraphs (b), (c), (d), (e), and (f) of this section, other than cases of pension for life, shall be paid in installments at the same intervals at which the wages or earnings of the employee were paid at the time of the injury, or if this shall not be feasible, then the installments shall be paid weekly.

SEC. 9. Any employer or employee or beneficiary who shall desire to have such compensation, or any unpaid part thereof, paid in a lump sum, may petition the Industrial Board, asking that such compensation be so paid, and if, upon proper notice to the interested parties and a proper showing made before such board, it appears to the interest of the parties that such compensation be so paid, the board may order the commutation of the compensation to an equivalent lump sum which commutation shall be an amount which will equal the total sum of the probable future payments capitalized at their present value upon the basis of interest calculated at three per centum per annum, with annual rests: Provided, That in cases indicating complete disability no petition for a commutation to a lump-sum basis shall be entertained by the Industrial Board until after the expiration of six months from the date of the injury, and where necessary, upon proper application being made, a guardian, conservator, or administrator, as the case may be, may be appointed for any person under disability who may be entitled to any such compensation, and an employer bound by the terms of this act and liable to pay such compensation may petition for the appointment of the public administrator, or a conservator, or guardian, where no legal representative has been appointed or is acting for such party or parties so under disability. Either party may reject an award of a lump-sum payment of compensation, except an award for compensation under section 7 or paragraph (e) of section 8 or for the injuries defined in the last paragraph of paragraph (e) of section 8 as constituting total and permanent disability, by filing his written rejection thereof with the said board within ten days after notice to him of the award, in which event compensation shall be payable in installments as herein provided.

SEC. 12. An employee entitled to receive disability payments shall be required, if requested by the employer, to submit himself, at the expense of the employer, for examination to a duly qualified medical practitioner or surgeon selected by the employer, at a time and place reasonably convenient for the employee, as soon as practicable after the injury, and also one week after the first examination and thereafter at intervals not oftener than once every four weeks, which examination shall be for the purpose of determining the nature, extent, and probable duration of the injury received by the employee, and for the purpose of ascertaining the amount of compensation which may be due the employee from time to time for disability according to the provisions of this act: Provided, however, That such examination shall be made in the presence of a duly qualified medical practitioner or surgeon provided and paid for by the employee, if such employee so desires. In all cases where the examination is made by a surgeon engaged by the employer and the injured employee has no surgeon present at such examination, it shall be the duty of the surgeon making the examination at the instance of the employer to deliver to the injured employee, upon his request or that of his representative, a statement in writing of the condition and extent of the injury to the same extent that said surgeon

reports to the employer. If the employee refuses so to submit himself to examination or unnecessarily obstructs the same, his right to compensation payments shall be temporarily suspended until such examination shall have taken place, and no compensation shall be payable under this act for such period. It shall be the duty of surgeons treating an injured employee who is likely to die, and treating him at the instance of the employer, to have called in another surgeon, to be designated and paid for by either the injured employee or by the person or persons who would become his beneficiary or beneficiaries, to make an examination before the death of such injured employee.

SEC. 13. There is hereby created a board, which shall be known as the Industrial Board, to consist of three members to be appointed by the governor, by and with the consent of the senate, one of whom shall be a representative citizen of the employing class operating under this act, and one of whom shall be a representative citizen chosen from among the employees operating under this act, and one of whom shall be a representative citizen not identified with either the employing or employee classes, and who shall be designated by the governor as chairman. Appointment of members to places on the first board or to fill vacancies on said board may be made during recesses of the senate, but shall be subject to confirmation by the senate at the next ensuing session of the legislature. The term of office of members of this board shall be six years, expiring on January 31 of the odd years, except that when first constituted one member shall be appointed for two years, one for four years, and one for six years. Thereafter one member shall be appointed every second year for the full term of six years. Not more than two members of the board shall belong to the same political party. (Amended. See page 455.)

SEC. 14. The salary of each of the members of the board so appointed by the governor shall be five thousand dollars (\$5,000) per year. The board shall appoint a secretary and shall employ such assistants and clerical help as may be necessary. The salary of the arbitrators designated by the board shall be at the rate of eighteen hundred dollars (\$1,800) per year. The members of the board and the arbitrators shall have reimbursed to them their actual traveling expenses and disbursements made or incurred by them in the discharge of their official duties while away from their places of residence in the performance of their duties. The board shall provide itself with a seal for the authentication of its orders, awards, and proceedings, upon which shall be inscribed the words "Industrial Board—Illinois—Seal."

SEC. 16. The board may make rules and orders for carrying out the duties imposed upon it by law, which rules and orders shall be deemed prima facie reasonable and valid; and the process and procedure before the board shall be as simple and summary as reasonably may be. The board, or any member thereof, or any arbitrator designated by said board, shall have the power to administer oaths, subpoena and examine witnesses, to issue subpoenas duces tecum requiring the production of such books, papers, records, and documents as may be evidence of any matter under inquiry, and to examine and inspect the same and such places or premises as may relate to the question in dispute. Said board, or any member thereof, or any arbitrator designated by said board, shall, on written request of either party to the dispute, issue subpoenas for the attendance of such witnesses and production of such books, papers, records, and documents as shall be designated in said applications: Providing, however, That the parties applying for such subpoena shall advance the officer and witness fees provided for in suits pending in the circuit court. Service of such subpoenas shall be made by any sheriff or constable or other person. In case any person refuses to comply with an order of the board or subpoena issued by it or any member thereof, or any arbitrator designated by said board, or

to permit an inspection of places or premises, or to produce any books, papers, records, or documents, or any witness refuses to testify to any matter regarding which he may be lawfully interrogated, the county court of the county in which said hearing or matter is pending, on application of any member of the board or any arbitrator designated by the board, shall compel obedience by attachment proceedings, as for contempt, as in a case of disobedience of the requirements of a subpoena from such court on a refusal to testify therein.

The board, at its expense, shall provide a stenographer to take the testimony and record of proceedings at the hearings before an arbitrator, committee of arbitration, or the board, and said stenographer shall furnish a transcript of such testimony or proceedings to any person requesting it upon payment to him therefor of five cents per one hundred words for the original and three cents per one hundred words for each copy of such transcript.

The board shall have the power to determine the reasonableness and fix the amount of any fee or compensation charged by any person for any service performed in connection with this act or for which payment is to be made under this act or rendered in securing any right under this act.

SEC. 19. Any disputed questions of law or fact upon which the employer and employee or personal representative can not agree shall be determined as herein provided.

(a) It shall be the duty of the Industrial Board, upon notification that the parties have failed to reach an agreement, to designate an arbitrator: **Provided**, That if the compensation claimed is for a partial permanent or total permanent incapacity or for death, then the dispute may, at the election of either party, be determined by a committee of arbitration, which election for a determination by a committee shall be made by petitioner filing with the board his election in writing with his petition, or by the other party filing with the board his election in writing within five days of notice to him of the filing of the petition, and thereupon it shall be the duty of the Industrial Board, upon either of the parties having filed their election for a committee of arbitration as above provided, to notify both parties to appoint their respective representatives on the committee of arbitration. The board shall designate an arbitrator to act as chairman, and if either party fails to appoint its member on the committee within seven days after notification as above provided, the board shall appoint a person to fill the vacancy and notify the parties to that effect. The party filing his election for a committee of arbitration shall with his election deposit with the board the sum of twenty dollars, to be paid by the board to the arbitrators selected by the parties as compensation for their services as arbitrators, and upon a failure to deposit as aforesaid, the election shall be void and the determination shall be by an arbitrator designated by the board. The members of the committee of arbitration appointed by either of the parties or one appointed by the board to fill a vacancy by reason of the failure of one of the parties to appoint, shall not be a member of the board or an employee thereof.

(b) The arbitrator or committee of arbitration shall make such inquiries and investigations as he or they shall deem necessary, and may examine and inspect all books, papers, records, places, or premises relating to the questions in dispute, and hear such proper evidence as the parties may submit. The hearings before the arbitrator or committee of arbitration shall be held in the vicinity where the injury occurred, after ten days' notice of the time and place of such hearing shall have been given to each of the parties or their attorneys of record. The decision of the arbitrator or committee of arbitration shall be filed with the industrial board, which board shall immediately send to each party or his attorney a copy of such decision, together with a

notification of the time when it was filed, and unless a petition for a review is filed by either party within fifteen days after the receipt by said party of the copy of such decision and notification of time when filed, and unless such party petitioning for a review shall within twenty days after the receipt by him of the copy of said decision, file with the board either an agreed statement of the facts appearing upon the hearing before the arbitrator or committee of arbitration, or if such party shall so elect, a correct stenographic report of the proceedings at such hearings, then the decision shall become the decision of the Industrial Board: Provided, That such Industrial Board may for sufficient cause shown grant further time, not exceeding thirty days, in which to petition for such review or to file such agreed statement or stenographic report. Such agreed statement of facts or correct stenographic report, as the case may be, shall be authenticated by the signatures of the parties or their attorneys, and in the event they do not agree as to the correctness of the stenographic report it shall be authenticated by the signature of the arbitrator designated by the board.

(c) The Industrial Board may appoint at its expense a duly qualified, impartial physician to examine the injured employee and report to the board. The fee for this service shall not exceed five dollars and traveling expenses, but the board may allow additional reasonable amounts in extraordinary cases. The fees and the payment thereof of all attorneys and physicians for services authorized by the board under this act shall, upon request of either the employer or the employee or the beneficiary affected, be subject to the review and decision of the Industrial Board.

(d) If any employee shall persist in insanitary or injurious practices which tend to either imperil or retard his recovery or shall refuse to submit to such medical or surgical treatment as is reasonably essential to promote his recovery, the board may, in its discretion, reduce or suspend the compensation of any such injured employee.

(e) If a petition for review and agreed statement of facts or stenographic report is filed, as provided herein, the Industrial Board shall promptly review the decision of the arbitrator or committee of arbitration and all questions of law or fact which appear from the said statement of facts or stenographic report and such additional evidence as the parties may submit. After such hearing upon review, the board shall file in its office its decision thereon, and shall immediately send to each party or his attorney a copy of such decision and a notification of the time when it was filed. Such review and hearing may be held in its office, or elsewhere, as the board may deem advisable: Provided, The board shall give ten days' notice of the time and place thereof to the parties or their attorneys. In any case, the board in its decision may, in its discretion, find specially upon any question or questions of law or fact, which shall be submitted in writing by either party, whether ultimate or otherwise. Any party may, within twenty days after the receipt of notice of the board's decision, or within such further time, not exceeding thirty days, as the board may grant, file with the board either an agreed statement of the facts appearing upon the hearing, or, if such party shall so elect, a correct stenographic report of the additional proceedings presented before the board, in which report the party may embody a correct statement of such other proceedings in the case as such party may desire to have reviewed, such statement of facts or stenographic report to be authenticated by the signatures of the parties or their attorneys; and in the event that they do not agree, then the authentication of such stenographic report shall be by the signature of the chairman of the board. The applications for adjustment of claim and other documents in the nature of pleadings filed by either party, together with the

decisions of the arbitrator and of the Industrial Board, and the statement of facts or stenographic reports hereinbefore provided for in paragraphs (b) and (c), shall be the record of the proceedings of said board and shall be subject to review as hereinafter provided.

(f) The decision of the Industrial Board, acting within its powers, according to the provisions of paragraph (e) of this section, and of the arbitrator or committee of arbitration, where no review is had and his or their decision becomes the decision of the Industrial Board in accordance with the provisions of this section, shall, in the absence of fraud, be conclusive unless reviewed as in this paragraph hereinafter provided.

(1) The circuit court of the county where any of the parties defendant may be found shall by writ of certiorari to the Industrial Board have power to review all questions of law presented by such record. Such writ shall be issued by the clerk of such court upon præcipe. Service upon any member of the Industrial Board or the secretary thereof shall be by scire facias, or service may be made upon said board and other parties in interest by mailing notice of the commencement of the proceedings and the return day of the writ to the office of said board and the last known place of residence of the other parties in interest at least ten days before the return day of said writ; or (2) any party in interest may commence a suit in chancery in the circuit court of the county where any of the parties defendant may be found to review the decision of the board only for errors of law appearing on the said record of the said board. Such suit by writ of certiorari or in chancery shall be commenced within twenty days of the receipt of notice of the decision of the board.

The court may confirm or set aside the decision of the arbitrator or committee of arbitration or Industrial Board. If the decision is set aside and the facts found in the proceedings before the board are sufficient, the court may enter such decision as is justified by law, or may remand the cause to the Industrial Board for further proceedings, and may state the questions requiring further hearing, and give such other instructions as may be proper.

Judgments, orders, and degrees of the circuit court under this act shall be reviewed only by the supreme court upon writ of error. Upon motion, the trial court shall enter of record a certificate that the cause is or is not, in his opinion, one proper to be reviewed by the supreme court. Upon filing with the clerk of the supreme court a certified copy of such a certificate that the cause is one proper to be reviewed, writ of error shall issue. If the trial court certifies that the cause is not one proper to be reviewed, the supreme court, in its discretion, may, nevertheless, order that a writ of error issue. A writ of error when issued shall operate as a supersedeas.

The decision of any two members of a committee of arbitration or of the Industrial Board shall be considered the decision of such committee or board, respectively.

(g) Either party may present a certified copy of the decision of the Industrial Board when no proceedings for review thereof have been taken, or of the decision of such arbitrator or committee of arbitration when no claim for review is made, or of the decision of the Industrial Board after hearing upon review, providing for the payment of compensation according to this act, to the circuit court of the county in which such accident occurred or either of the parties are residents, whereupon such court shall render a judgment in accordance therewith; and in cases where the employer does not institute proceedings for review of the decision of the Industrial Board and refuses to pay compensation according to the award upon which such judgment is entered, the court shall, in entering judgment thereon, tax as costs against him the reason-

able costs and attorney fees in the arbitration proceedings and in the court entering the judgment, for the person in whose favor the judgment is entered, which judgment and costs, taxed as herein provided, shall, until and unless set aside, have the same effect as though duly rendered in an action duly tried and determined by said court, and shall, with like effect, be entered and docketed. The circuit court shall have power, at any time, upon application, to make any such judgment conform to any modification required by any subsequent decision of the supreme court upon appeal, or as the result of any subsequent proceedings for review, as provided in this act.

Judgment shall not be entered until fifteen days' notice of the time and place of the application for the entry of judgment shall be served upon the employer by filing such notice with the Industrial Board; which board shall, in case it has on file the address of the employer or the name and address of its agent, upon whom notices may be served, immediately send a copy of the notice to the employer or such designated agent; and no judgment shall be entered in the event the employer shall file with the said board its bond, with good and sufficient surety in double the amount of the award, conditioned upon the payment of said award in the event the said employer shall fail to prosecute with effect proceedings for review of the decision, or the said decision upon review, shall be affirmed.

(h) An agreement or award under this act, providing for compensation in installments, may at any time within eighteen months after such agreement or award be reviewed by the Industrial Board at the request of either the employer or the employee, on the ground that the disability of the employee has subsequently recurred, increased, diminished, or ended; and on such review, compensation payments may be reestablished, increased, diminished, or ended: Provided, That the board shall give fifteen days' notice to the parties of the hearing for review: And provided further, Any employee, upon any petition for such a review being filed by the employer, shall be entitled to one day's notice for each one hundred miles necessary to be traveled by him in attending the hearings of the board upon said petition and three days in addition thereto, and such employee shall, at the discretion of the board, also be entitled to five cents per mile necessarily traveled by him in attending such hearing, not to exceed a distance of three hundred miles, to be taxed by the board as costs and deposited with the petition of the employer.

(i) Each party, upon taking any proceedings or steps whatsoever before any arbitrator, committee of arbitration, Industrial Board, or court shall file with the Industrial Board his address or the name and address of an agent upon whom all notices to be given to such party shall be served, either personally or by registered mail addressed to such party or agent at the last address so filed with the Industrial Board: Provided, That in the event such party has not filed his address or the name and address of an agent, as above provided, service of any notice may be had by filing such notice with the Industrial Board.

SEC. 21. No payment, claim, award, or decision under this act shall be assignable or subject to any lien, attachment, or garnishment, or be held liable in any way for any lien, debt, penalty, or damages. In case of insolvency of the employer every decision of the Industrial Board for compensation under this act shall, upon the filing of a certified copy of the decision with the recorder of deeds of the county, constitute a lien upon all property of the employer within said county paramount to all other claims or liens, except for wages and taxes and mortgages or trust deeds, and such liens shall be enforced by order of the court. Any right to receive compensation hereunder shall be extinguished by the death

of the person or persons entitled thereto, subject to the provisions of this act relative to compensation for death received in the course of employment: Provided, That upon the death of a beneficiary who is receiving compensation provided for in section 7, leaving surviving a parent, sister, or brother of the deceased employee, at a time of his death depending upon him for support, who were receiving from such beneficiary a contribution to support, then that proportion of the compensation of the beneficiary which would have been paid but for the death of the beneficiary, but in no event exceeding said unpaid compensation, which the contribution of the beneficiary to the dependent's support within one year prior to the death of the beneficiary bears to the compensation of the beneficiary within that year shall be continued for the benefit of such dependents notwithstanding the death of the beneficiary.

SEC. 26. (a) An employer who elects to provide and pay the compensation provided for in this act shall, within ten (10) days of receipt by the employer of a written demand by the Industrial Board, (1) file with the board a sworn statement showing his financial ability to pay the compensation provided for in this act, normally required to be paid, or (2) furnish security, indemnity, or a bond guaranteeing the payment by the employer of the compensation provided for in this act, normally required to be paid, or (3) insure to a reasonable amount his normal ability to pay such compensation in some corporation, association, or organization authorized, licensed, or permitted to do such insurance business in this State, or (4) make some other provisions for the securing of the payment of compensation provided for in this act, normally required to be paid, and shall, within twenty (20) days of the receipt of such written demand, furnish to the board evidence of his compliance with one of the above alternatives: Provided, That the sworn statement of financial ability, or security, indemnity or bond, or amount of insurance or other provision, filed, furnished, carried, or made by the employer, as the case may be, shall be subject to the approval of the board, upon the approval of which the board shall send to the employer written notice of its approval thereof: And provided further, That demand shall not be made upon the employer by the board oftener than once in any calendar year.

(b) If no sworn statement or no security, indemnity or bond, or no insurance is filed, furnished, or carried, or other provisions made by the employer within ten (10) days of receipt by the employer of the written demand provided for in paragraph (a), or if the statement, security, indemnity, bond, or amount of insurance filed, furnished, or carried, or other provision made by the employer, as provided in paragraph (a), shall not be approved by the board, and written notice of such nonapproval shall be given to the employer and the employer shall not comply with one of the alternatives of paragraph (a) of this section within ten (10) days after the receipt by the employer of such written notice of nonapproval, then the employer shall be liable for compensation to any injured employee, or his personal representative, according to the terms of this act, or for damages in the same manner as if the employer had elected not to accept this act, at the option of such employee or his personal representative: Provided, Such option is exercised and written notice thereof is given to the employer within thirty (30) days after the accident to such employee; otherwise the employer shall be liable only for the compensation payable according to the provisions of this act: And provided further, That if at any time thereafter the employer shall comply with any of the alternatives of paragraph (a), then as to all accidents occurring after the said compliance, the employer shall only be liable for compensation according to the terms of this act: And provided further, That upon the failure of any employer to comply with the provisions of this

section the Industrial Board may, for the purpose of furnishing notice to the employees of such employer, publish the fact of such failure by such employer in any newspaper having a general circulation in the county where such employer does business. (Amended. See page 455.)

Sec. 33½ added by act, p. 400, Acts of 1915). This act may be cited as the workmen's compensation act.

ANNOTATIONS.

WORKMEN'S COMPENSATION ACT.

1. CONSTITUTIONALITY OF ACT—CLASSIFICATION.
2. CONSTRUCTION AND APPLICATION OF ACT.
3. ELECTION BY EMPLOYER TO PAY COMPENSATION—DEFENSES.
4. ELECTION BY EMPLOYEE—CONDITION.
5. ELECTION BY EMPLOYER AND EMPLOYEE—REMEDY—PRACTICE.
6. ELECTION TO ACCEPT—PRESUMPTION.
7. REJECTION BY EMPLOYER—EFFECT AND LIABILITY—PROOF.
8. REJECTION BY EMPLOYEE—NOTICE.
9. DEFENSES AVAILABLE TO EMPLOYER.
10. MINER'S RIGHT TO RECOVER FOR INJURY—PROOF.
11. CONTRIBUTORY NEGLIGENCE OF MINER—EFFECT ON RECOVERY.
12. PROCEDURE UNDER ACT—ARBITRATION.
13. NOTICE OF INJURY—SUFFICIENCY.
14. DISABILITY—PERMANENT AND PARTIAL—INCREASED—REVIEW.
15. INDUSTRIAL BOARD—JURISDICTION—CONCLUSIVENESS OF FINDING—APPEAL.
16. APPLICATION OF STATUTE.

1. CONSTITUTIONALITY OF ACT—CLASSIFICATION.

The act of 1911, known as the Workmen's Compensation Act, is constitutional.

Crooks v. Tazewell, 263 Ill. 343, p. 347;

Dietz v. Big Muddy Coal & Iron Co., 263 Ill. 480, p. 488;

Frey v. Kerens-Donnewald Coal Co., 271 Ill. 121, p. 125;

French v. Clover Leaf Coal Min. Co., 190 Ill. App. 400, p. 402.

The workmen's compensation act of Illinois is constitutional. It is within the power of the legislature to require an employer guilty of no negligence to pay an injured employee compensation.

Casparis Stone Co. v. Industrial Board, etc., 278 Ill. 77, p. 80;

Inspiration Consol. Copper Co. v. Mendez (Arizona), 166 Pacific 278.

Under the doctrine of equal protection of the law the Federal constitution prohibits class legislation; but there is no prohibition against a reasonable classification of persons and things for the purpose of legislation, but the classification must not be capricious or arbitrary, but must be reasonable and natural and based upon some principle of public policy. If the classification provided is not unreasonable and arbitrary and the statute is uniform in its operation on all the members of a class to which it is made applicable, the equal protection clause of the Federal constitution is satisfied. In the exercise of its power to make classification the legislature is permitted wide range of discretion and the question of classification is primarily with the law-making body and it becomes a judicial question only when the legislative action is clearly unreasonable. The classification provided in the Illinois workmen's compensation act bears a reasonable relation to the object sought to be accom-

plished and is uniform as to all members of the class to which it is made applicable; and it is not unconstitutional because of such classification.

Casparis Stone Co. v. Industrial Board, etc., 278 Illinois 77, p. 80.

2. CONSTRUCTION AND APPLICATION OF ACT.

The difficulty in understanding and applying the provisions of section 1 resulting from the language "to any employee who has elected to accept the provisions of this act," is obviated and the application readily understood by interpolating two negatives in the clause and making it read, "any employee who has not elected to not accept the provisions of this act." The basis of this construction lies in the fact that the law automatically and without any action on their part applies to both employer and employee, and both must, to avoid the provision of the act, give notice of their election not to be bound thereby. Hence an employee would not be required to elect to accept the provisions of the act but it must apply if he has not elected to not accept its provisions.

Dietz v. Big Muddy Coal & Iron Co., 263 Ill. 480, p. 486.

It was manifestly the intention of the legislature to make the act applicable to all employers within the enumerated employment, unless and until notice in writing of their election to the contrary is filed with the State Bureau of Labor Statistics. All employees to whom the act applied were likewise automatically made subject to the law and both employer and employee in the specified employments became subject to the act without any affirmative action on their part. The elective feature of the act is to be exercised to avoid being governed by it and not to cause the act to be applied in any given case.

Dietz v. Big Muddy Coal & Iron Co., 263 Ill. 480, p. 486.

The act of 1911 is not mandatory but elective and when both employer and employee come under the act and are subject to its provisions, the act becomes a part of the contract of employment and enforceable between the parties as such.

Crooks v. Tazewell, 263 Ill. 343, p. 347;

Dietz v. Big Muddy Coal & Iron Co., 263 Ill. 480, p. 484.

Fruit v. Industrial Board, etc., ——— Ill. ———, 119 N. E. 931.

3. ELECTION BY EMPLOYER TO PAY COMPENSATION—DEFENSES.

The employer must first elect whether to pay the compensation fixed by the act or remain liable for damages under the law as it was but deprived of certain defenses. If the employer elects to pay compensation under the act then the employee is also bound by the act, unless within 30 days after the employment he shall file a notice of his rejection of the act. If the employer elects not to accept the provisions of the act then he is penalized by being deprived of the defenses of assumed risk, negligence of a fellow servant, want of ordinary care, or contributory negligence. If the employer elects to pay compensation under the act and the employee elects not to accept compensation and take his right to sue for damages, the employer in any such action may interpose the defenses of assumed risk, negligence of a fellow servant or contributory negligence.

Fayrer v. Superior Coal Co., 188 Ill. App. 203, p. 206.

See *Bateman v. Carterville & Big Muddy Coal Co.*, 188 Ill. App. 357;

Price v. Clover Leaf Coal Min. Co., 188 Ill. App. 27, p. 31;

French v. Clover Leaf Coal Min. Co., 190 Ill. App. 400, p. 402;

Cynkus v. Big Muddy Coal & Iron Co., 190 Ill. App. 602, p. 603;

Krisman v. Johnston City & Big Muddy Coal & Iron Co., 190 Ill. App. 612, p. 614.

If an employer elects not to come within the provisions of the act and files the proper notice with the State Bureau of Labor Statistics he is not subject thereto with the single exception that he forfeits his right to interpose the common law defenses of assumed risk, fellow servant and contributory negligence, except that the latter may be shown for the purpose of reducing the damages.

Crooks v. Tazewell, 263 Ill. 343, p. 347;

Dietz v. Big Muddy Coal & Iron Co., 263 Ill. 480, p. 484.

Wendzinski v. Madison Coal Co., ——— Ill. ———, 118 N. E. 435.

4. ELECTION BY EMPLOYEE—CONDITION.

There is no method provided in the statute by which a miner or employee can elect to be governed by the act unless the mine operator or employer has previously exercised his right of election and determined to be governed by the act. It was not the intention of the legislature to put it in the power of the miner or employee to compel the operator or employer to adopt the act without regard to the operator or employers own wishes in the matter.

Dietz v. Big Muddy Coal & Iron Co., 263 Ill. 480, p. 483.

5. ELECTION BY EMPLOYER AND EMPLOYEE—REMEDY—PRACTICE.

Where employer and employee have both elected to come within and be bound by the provisions of the act then, in seeking redress under it the action must be brought pursuant to and in accordance with its terms and provisions.

Crooks v. Tazewell, 263 Ill. 343, p. 348.

See *Dietz v. Big Muddy Coal & Iron Co.*, 263 Ill. 480.

Where a coal mine operator has elected to come under the provisions of the act so long as such election remains in force the act is effective as to the parties making election and in case both employer and employee elect to come under its provisions the act itself becomes a part of the contract of employment.

Bateman v. Carterville & Big Muddy Coal Co., 188 Ill. App. 357, p. 364.

See *Price v. Clover Leaf Coal Min. Co.*, 188 Ill. App. 27, p. 31.

6. ELECTION TO ACCEPT—PRESUMPTION.

The presumption of law is that both the mine operator and the examiner were governed by the provisions of the workmen's compensation act, unless it is made to appear that one or both of them filed an election to the contrary with the State Bureau of Labor Statistics.

Dietz v. Big Muddy Coal & Iron Co., 263 Ill. 480;

Krisman v. Johnston City & Big Muddy Coal & Iron Co., 190 Ill. App. 612;

French v. Clover Leaf Coal Min. Co., 190 Ill. App. 400, p. 402;

Cynkus v. Big Muddy Coal & Iron Co., 190 Ill. App. 602, p. 603;

Beveridge v. Illinois Fuel Co., ——— Ill. ———, 119 N. E. 46.

The employer and employee automatically accept the provisions of the act without filing an election not to accept the act.

Fayrer v. Superior Coal Co., 188 Ill. App. 203, p. 207.

See *Dietz v. Big Muddy Coal & Iron Co.*, 263 Ill. 480;

Bateman v. Carterville & Big Muddy Coal Co., 188 Ill. App. 357;

Price v. Clover Leaf Coal Min. Co., 188 Ill. App. 27, p. 31.

7. REJECTION BY EMPLOYER—EFFECT AND LIABILITY—PROOF.

Where an employer has elected not to be bound by the act, then the parties are remitted to their action at law and are governed by the rules and principles

applicable to such actions, except as to the matter of defense of assumed risk, fellow servant and contributory negligence.

Crooks v. Tazewell, 263 Ill. 343, p. 348.

See *Dietz v. Big Muddy Coal & Iron Co.*, 263 Ill. 480.

A notice by a coal mine operator of his rejection of the provisions of the act and on file at the place provided by law remains good until withdrawn and fixes the status of the parties and proof of such fact is sufficient to show that a coal mine operator was not operating his coal mine under the workmen's compensation act at the time of the injuries sued for by the miner.

Bateman v. Carterville & Big Muddy Coal Co., 188 Ill. App. 357, p. 367.

See *Price v. Clover Leaf Coal Min. Co.*, 188 Ill. App. 27, p. 31.

A certified copy of the notice filed by a coal mine operator not to come within the provisions of this act is admissible in evidence to prove that he had rejected the provisions of the act; but the original notice without proof of its being filed as required is not admissible.

Bateman v. Carterville & Big Muddy Coal Co., 188 Ill. App. 357, p. 367.

8. REJECTION BY EMPLOYEE—NOTICE.

Where an employer refuses to accept the provisions of the act an employee has no option in the matter; but it is only when the employer accepts its provisions that the employee may reject it and must give notice thereof. The employee only has the right of election where the employer has elected to accept this provision.

Favror v. Superior Coal Co., 188 Ill. App. 203, p. 207.

See *Dietz v. Big Muddy Coal & Iron Co.*, 263 Ill. 480.

Bateman v. Carterville & Big Muddy Coal Co., 188 Ill. App. 357.

Price v. Clover Leaf Coal Min. Co., 188 Ill. App. 27, p. 31.

9. DEFENSES AVAILABLE TO EMPLOYER.

A mine operator who has rejected the provisions of the workmen's compensation act cannot in an action by a miner for damages for injuries, set up the defenses of assumed risk, fellow servant or contributory negligence, except that contributory negligence may be shown for the purpose of lessening the damages.

Crooks v. Tazewell, 263 Ill. 343, p. 349.

Dietz v. Big Muddy Coal & Iron Co., 263 Ill. 484.

The legislature has clearly taken away the common law action as to all miners or employees who have elected to be governed by the statute. The existence or non-existence of the common law defense depends upon the status of the employer in respect to the act and not the status of the employee.

Dietz v. Big Muddy Coal & Iron Co., 263 Ill. 480, p. 484.

10. MINER'S RIGHT TO RECOVER FOR INJURY—PROOF.

In an action by a miner against an operator for damages for injuries caused by a dangerous condition in the mine in that particles and large lumps of coal were scraped off the cars and permitted to accumulate on the track, thereby causing the injuries complained of, the miner may show that the operator had not provided and had not paid the compensation provided by this act.

Crooks v. Tazewell, 263 Ill. 343, p. 349.

In an action by a miner against the operator for injuries it is proper for the complainant to show that the operator as employer had elected not to come under the provisions of this statute.

Crooks v. Tazewell, 263 Ill. 343, p. 348.

See *Dietz v. Big Muddy Coal & Iron Co.*, 263 Ill. 480.

11. CONTRIBUTORY NEGLIGENCE OF MINER—EFFECT ON RECOVERY.

A mine operator can not escape liability for the injuries sustained by the miner arising out of and in the course of his employment, if the liability is shown, although the injuries were proximately caused by the contributory negligence of the miner himself, but any such contributory negligence may be considered in reducing the amount of damages.

Crooks v. Tazewell, 263 Ill. 343, p. 349.

Where in an action against a coal-mine operator for damages for injuries to a miner the proof shows that the operator had elected not to come under the "Illinois workmen's compensation act" of 1911, he can not escape liability for injuries sustained by a miner on the ground that the miner assumed the risk, or because the injury or death of the miner was proximately caused by his own contributory negligence.

Bell v. Toluca Coal Co., 272 Ill. 576, p. 585.

12. PROCEDURE UNDER ACT—ARBITRATION.

The workmen's compensation act of Illinois (Laws 1913, p. 347) provides (sec. 16) that the industrial board may make rules and orders for carrying out the duties imposed upon it, and that the process and procedure shall be as simple and summary as reasonably may be. It provides also (sec. 19) for the appointment of a committee of arbitration, where the employer and employee can agree. There is no time fixed within which the committee shall make its investigation and report, and the statute in no way intimates that the committee of arbitration can be relieved from making a report because the members do not agree, but it positively provides that it shall report. When a committee was duly appointed and reported that it could not agree, it was the duty of the board to refer the matter back and require a final report from the committee.

Kerens-Donnewald Coal Co. v. Industrial Board, etc., 277 Ill. 35, p. 37.

13. NOTICE OF INJURY—SUFFICIENCY.

Under the Illinois workmen's compensation act, a verbal notice of the injury to the employer is sufficient.

Smith, Sohr Coal Mining Co. v. Industrial Board, etc., 279 Ill. 88, p. 92.

Section 24 of the Illinois workmen's compensation act requires that notice of an accident be given the employer as soon as practical, but not later than thirty days after the accident, and the notice shall apprise the employer fully of the circumstances and injury. The purpose of this was to prevent employers from being held liable for fraudulent injuries without an opportunity of investigating before such a lapse of time that the fraud could not be discovered.

Casparis Stone Co. v. Industrial Board, etc., 278 Ill. 77, p. 82.

14. DISABILITY—PERMANENT AND PARTIAL—INCREASED—REVIEW.

A finding of the industrial board under the Illinois workmen's compensation act of 1913, that the injured workman is "now totally disabled," is not a finding and does not have the effect of a finding that the injured workman is permanently disabled. A man might now be totally disabled and yet not permanently disabled.

Illinois Midland Coal Co. v. Industrial Board, etc., 277 Ill. 333, p. 336.

It was not the intention of the Illinois workmen's compensation act to defeat a recovery because of any inaccuracy or technical defect in the form

of the notice where a disability for which the employee has received compensation has recurred or increased. The employee may without previous notice, but within eighteen months from the time of the agreement or award, petition for a review under the original section 19h (sec. 144). On such review the petitioner must produce in evidence the record of the former hearing, as this is essential to the review, and it is error to receive evidence as if the hearing were an original one. On such review or rehearing, the injured employee can only be permitted to show the changes in his condition since the former hearing.

Casparis Stone Co. v. Industrial Board, etc., 278 Ill. 77, p. 83.

By the failure to file a statement of the facts as shown by the additional testimony on the review of a claim, or a stenographic report of the same, a material step in the proceedings to review the decision of the Illinois Industrial board was admitted, but under such circumstances it must be presumed that the additional evidence heard was sufficient to sustain the board's findings in the absence of such additional testimony from the record. So in the absence of a report of such additional testimony the finding of the board that sufficient notice had been given is conclusive and it must be assumed that the additional evidence offered supported the finding of the board on the question of temporary and total disability.

Smith, Sohr Coal Mining Co. v. Industrial Board, etc., 279 Ill. 88, p. 92.

Section 8 of the Illinois workmen's compensation act provides, among other things, that where if an injury has been sustained the employee as a result thereof becomes partly incapacitated from pursuing his usual employment he shall be entitled to compensation at the specified rate. The previous physical condition of the employee is unimportant so long as the injury sustained is the proximate cause of the incapacity for which compensation is sought. The protection afforded is not confined to healthy employees. It is the injury arising out of the employment and not out of the disease of the employee for which compensation is made. It is the hazards of the employment acting upon the particular employee, not his condition of health, and not what the hazards would be in acting upon a healthy employee. An employee may be suffering from some ailment and the exertion of the employment or the injury may develop his condition in such a manner that it becomes a personal injury and he is entitled to recover for all the consequences attributable to the injury. The augmenting or aggravating of a preexisting ailment may therefore be a personal injury within the workmen's compensation act.

Big Muddy Coal & Iron Co. v. Industrial Board, etc., 279 Ill. 235, p. 233.

15. INDUSTRIAL BOARD—JURISDICTION—CONCLUSIVENESS OF FINDING—APPEAL.

Under section 19 of the workmen's compensation act of 1913, when the industrial board acts within its power, its findings upon the facts are conclusive upon the courts.

Illinois Midland Coal Co. v. Industrial Board, etc., 277 Ill. 333, p. 336.

On appeal from a decision of the industrial board provided for by the workmen's compensation act of Illinois (Laws 1913, p. 347) the court, in reviewing the proceedings of the board, can only review questions of law and can only determine from the facts recited in the decision of the industrial board whether that body acted within its powers in making the award.

Kerens-Donnewald Coal Co. v. Industrial Board, etc., 277 Ill. 35, p. 38.
See *McMurray v. Peabody Coal Co.*, ——— Ill. ———, 118 N. E., 29.

The jurisdiction of the industrial board to review the proceedings of the committee of arbitration does not depend on the filing of a stenographic report within the time specified by the statute. It is sufficient if at any time before the hearing a properly authenticated stenographic report is filed with the industrial board. The date fixed by the statute as to the filing of the stenographic report is directory and not mandatory, and is not jurisdictional.

Illinois Midland Coal Co. v. Industrial Board, 277 Ill. 333, p. 335.

16. APPLICATION OF STATUTE.

The statute does not apply to a driver employed by a retail coal dealer injured while driving a team hauling material other than coal. The injured employee was not engaged in any extrahazardous occupation within the meaning of the statute.

Fruit v. Industrial Board, etc., ——— Ill. ———, 119 N. E. 931, p. 932.

See *Sugar Valley Coal Co. v. Drake*, ——— Ind. App. ———, 117 N. E. 937, p. 938.

SESSION LAWS 1917.

DEPARTMENT OF MINES AND MINERALS.

CREATION OF DEPARTMENT OF MINES AND MINERALS.

LAWS 1917, P. 4.

MARCH 7, 1917.

AN ACT In relation to the civil administration of the State government, and to repeal certain acts therein named.

SEC. 1. Be it enacted, etc.:

This Act shall be known as "The Civil Administrative Code of Illinois."

SEC. 2. The word "department," as used in this Act, shall, unless the context otherwise clearly indicates, means the several departments of the State government as designated in section 3 of this Act, and none other.

SEC. 3. Departments of the State government are created as follows: * * *

The Department of Mines and Minerals; * * *

SEC. 4. Each department shall have an officer at its head who shall be known as a director, and who shall, subject to the provisions of this Act, execute the powers and discharge the duties vested by law in his respective department.

The following officers are hereby created: * * *

Director of Mines and Minerals, for the Department of Mines and Minerals. * * *

SEC. 5. In addition to the directors of departments, the following executive and administrative officers, boards and commissions, which said officers, boards and commissions in the respective departments, shall hold offices hereby created and designated as follows: * * *

In the Department of Mines and Minerals:

Assistant Director of Mines and Minerals;

The Mining Board, which shall consist of four officers designated as Mine Officers and the Director of the Department of Mines and Minerals;

The Miners' Examining Board, which shall consist of four officers, designated Miners' Examining Officers.

* * * * *

SEC. 7. * * *

The Director of Mines and Minerals shall be a person thoroughly conversant with the theory and practice of coal mining, but who is not identified with either coal operators or coal miners. Of the four mine officers, two shall be coal operators and two shall be practical coal miners.

Each of the three miners' examining officers shall have had at least five years' practical and continuous experience as a coal miner and have been actually engaged as a coal miner in this State continuously for twelve months next preceding his appointment, and no one of whom shall hold any lucrative public office, Federal, State, or municipal. * * *

SEC. 8. Each advisory and nonexecutive board, except as otherwise expressly provided in this Act, with respect to its field of work, or that of the department with which it is associated, have the following powers and duties;

1. To consider and study the entire field; to advise the executive officers of the department upon their request; to recommend, on its own initiative, policies

and practices, which recommendations the executive officers of the department shall duly consider, and to give advice or make recommendations to the Governor and the General Assembly when so requested, or on its own initiative;

2. To investigate the conduct of the work of the department with which it may be associated, and for this purpose to have access, at any time, to all books, papers, documents, and records pertaining or belonging thereto, and to require written or oral information from any officer or employee thereof;

3. To adopt rules, not inconsistent with law, for its internal control and management, a copy of which rules shall be filed with the director of the department with which such board is associated;

4. To hold meetings at such times and places as may be prescribed by the rules, not less frequently, however, than quarterly;

5. To act by a subcommittee, or by a majority of the board, if the rules so prescribe;

6. To keep minutes of the transactions of each session, regular or special, which shall be public records and filed with the director of the department;

7. To give notice to the governor and to the director of the department with which it is associated of the time and place of every meeting, regular or special, and to permit the governor and the director of the department to be present and to be heard upon any matter coming before such board.

SEC. 9. The executive and administrative officers whose offices are created by this Act shall receive annual salaries, payable in equal monthly installments, as follows: * * *

In the Department of Mines and Minerals:

The Director of Mines and Minerals shall receive five thousand dollars.

The Assistant Director of Mines and Minerals shall receive three thousand dollars.

Each mine officer shall receive five hundred dollars.

Each miners' examining officer shall receive one thousand eight hundred dollars. * * *

* * * * *

SEC. 35. The following offices, boards, commissions, arms, and agencies of the State government heretofore created by law, are hereby abolished, viz: * * * State mining board, chief clerk of the State mining board, State mine inspectors, miners' examining commissioners, constituting the miners' examining board, mine fire fighting and rescue station commission, superintendents of mine fire fighting and rescue stations, assistant superintendents of mine fire fighting and rescue stations. * * *

* * * * *

DEPARTMENT OF MINES AND MINERALS—POWERS.

SEC. 45. The Department of Mines and Minerals shall have power:

1. To exercise the rights, powers and duties vested by law in the State mining board, its officers and employees;

2. To exercise the rights, powers, and duties vested by law in the State mine inspectors;

3. To exercise the rights, powers, and duties vested by law in the miners' examining commission, its officers and employees;

4. To exercise the rights, powers, and duties vested by law in the mine fire-fighting and rescue station commission, superintendents and assistant superintendents, other officers and employees of the several mine-rescue stations;

5. To acquire and diffuse information concerning the nature, causes, and prevention of mine accidents;

6. To acquire and diffuse information concerning the improvement of methods, conditions and equipment of mines, with special reference to health, safety, and conservation of mineral resources;

7. To make inquiries into the economic conditions affecting the mining, quarrying, metallurgical, clay, oil, and other mineral industries;

8. To promote the technical efficiency of all persons working in and about the mines of the State, and to assist them better to overcome the increasing difficulties of mining, and for that purpose to provide bulletins, traveling libraries, lectures, correspondence work, classes for systematic instruction, or meetings for the reading and discussion of papers, and to that end to cooperate with the University of Illinois.

SEC. 46. The mining board, in the Department of Mines and Minerals, shall:

1. Hold such meetings, from time to time, as may be necessary for the proper discharge of its duties;

2. Conduct the examination and pass upon the practical and technological qualifications and personal fitness of all persons employed in the department of mines and minerals as inspectors of mines;

3. Conduct examinations and pass upon the practical and technological qualifications and personal fitness of persons seeking certificates of competency as mine managers, mine examiners, and hoisting engineers;

4. Conduct examinations, at the capitol, on the second Tuesday in September of each year, and at such other times as may be necessary, of candidates for employment as inspectors of mines;

5. Conduct examinations of persons seeking certificates of competency as mine managers, mine examiners, and hoisting engineers at such times and places within the State as shall, in the judgment of the board, afford the best facilities to the greatest number of candidates;

6. Give public notice, through the public press or otherwise, not less than ten days in advance, announcing the time and place at which any examination is to be held;

7. Prescribe uniform rules, conditions, and regulations for the examination of persons seeking employment as inspectors of mines and of those seeking certificates of competency as mine managers, mine examiners and hoisting engineers;

8. Report in writing to the Director of Mines and Minerals the names of persons qualified to be employed by the department of mines and minerals as inspectors of mines, and of those authorized to receive certificates of competency as mine managers, mine examiners and hoisting engineers;

9. Supervise, control and direct the State mine inspection service;

10. Have power to remove any inspector of mines or to cancel the certificate of any mine manager, mine examiner, or hoisting engineer, as provided in paragraphs (h) and (i) of section 3 of an Act entitled, "An Act to revise the laws in relation to coal mines and subjects relating thereto, and providing for the health and safety of persons employed therein," approved June 6, 1911, in force July 1, 1911, and all amendments thereto, past or future, or modifications thereof;

11. Preserve and keep on file, for not less than one year, all written examination papers and all other papers of any applicant, and to permit the inspection thereof by any applicant interested, at all reasonable times, and to give to any applicant a certified copy of any or all of his papers.

SEC. 47. The Director of Mines and Minerals shall be the executive officer of the mining board and shall execute orders, rules, and regulations made and promulgated by the mining board, and shall issue, in the name of the department of mines and minerals, certificates of qualification and competency to persons certified to him by the mining board and to no other persons.

SEC. 48. The Department of Mines and Minerals shall exercise and discharge the rights, powers and duties vested by law in the miners' examining commissioners, constituting the miners' examining board for the State of Illinois, under an act entitled, "An Act to provide for the safety to persons employed in and about coal mines, and to provide for the examination of persons seeking employment therein, in order that only competent persons may be employed as miners, and to create a board of examiners for this purpose and to provide a penalty for the violation of the same, and to repeal an Act entitled, 'An Act to amend an Act entitled, "An Act to provide for the safety of persons employed in and about coal mines and to provide for the examination of persons seeking employment as coal miners, and providing penalties for the violation of the same," approved June 1, 1908, in force July 1, 1908,' approved June 5, 1909, in force July 1, 1909," approved June 27, 1913, in force July 1, 1913, and all amendments thereto, past or future, or modifications thereof. (See page 92.)

Said act and all amendments thereto and modifications thereof, if any, shall be administered by the miners' examining board created by this Act, and in its name, without any direction, supervision, or control by the Director of Mines and Minerals, or by the mining board.

* * * * *

SEC. 64. The following Acts and parts of Acts are hereby repealed. * * *

"An Act to prevent accidents in mines and other industrial plants, and to conserve the resources of the State by the establishment of Illinois miners' and mechanics' institutes, and for the administration and support of the same," approved May 25, 1911, in force July 1, 1911.* * * (See page 104.)

"An Act to establish and create at the University of Illinois, the bureau to be known as a state geological survey, defining its duties and providing for the preparation and publication of its reports and maps to illustrate the natural resources of the State, and making appropriations therefor," approved May 12, 1905, in force July 1, 1905. * * * (See page 24.)

APPROPRIATIONS.

LAWS 1917, 156, P. 174.

JUNE 29, 1917.

AN ACT to provide for the ordinary and contingent expenses of the State Government, etc.

SEC. 1. Be it enacted, etc.:

That the following-named sums * * * be, and are hereby, appropriated to meet the ordinary and contingent expenses of the State Government, until the expiration of the first fiscal quarter after the adjournment of the next General Assembly. * * *

DEPARTMENT OF MINES AND MINERALS.

Sixty-seventh—To the Director of Mines and Minerals for expenses and equipment of the Department of Mines and Minerals: For salaries and wages: For 12 mine inspectors at \$1,800 each per annum, \$21,600 per annum; for cartographer, \$1,800 per annum; for clerk, \$1,500 per annum; for 2 stenographers at \$1,200 each per annum, \$2,400 per annum; for messenger, \$900 per annum; for secretary to the director, \$2,000 per annum; for teams of 5 men at the 6 mine rescue stations, \$2,600 per annum; for 6 superintendents at mine rescue stations at \$1,500 each per annum, \$9,000 per annum; for wages of mine rescue teams at fires and explosions, \$1,000 per annum; for extra helmet men at fires and explosions and emergency substitutes at mine rescue stations, \$2,000 per annum; for investigator to inquire into economic conditions affecting mining and all other mineral industries, \$2,000 per annum; for departmental office expenses, \$4,615

per annum; for traveling expense, \$24,000 per annum; for operating supplies and expenses, \$4,450 per annum; for repairs to present grounds, buildings, and equipment, \$1,500 per annum; for equipment, \$5,083 for the biennium; for reserve and contingencies, \$4,000 per annum.

(Total for Department of Mines and Minerals, \$177,813.00.)

MINE FIRE-FIGHTING EQUIPMENT.

EQUIPMENT FOR MINE FIRE FIGHTING.

LAWS 1917, P. 596.

JUNE 27, 1917.

AN ACT to amend an Act entitled, 'An Act to require fire-fighting equipment and other means for the prevention and controlling of fires and the prevention of loss of life from fires in coal mines,' approved and in force March 8, 1910, as subsequently amended, by amending sections two (2) and six (6) thereof. (See page 33.)

SEC. 1. Be it enacted, etc.:

That an Act entitled, "An Act to require fire-fighting equipment and other means for the prevention and controlling of fires and the prevention of loss of life from fires in coal mines," approved and in force March 8, 1910, as subsequently amended, be and the same is hereby amended, by amending sections two (2) and six (6) thereof to read as follows:

SEC. 2. (a) There shall be provided a supply of water for fighting fire underground which shall have a head from a standing body in a pipe tank or pond.

(b) Such water supply shall be conducted into the mine in an iron or steel pipe or pipes not less than two inches in diameter, which shall have not less than two hose connections at the bottom of the hoisting shaft, and two hose connections at the bottom of the air and escapement shaft designated as such under the law, and two hose connections in each stable which is located less than five hundred (500) feet from the bottom of either of said shafts; and there shall be iron or steel pipes not less than two inches in diameter in the entries and passageways leading from the bottom of each of said shafts to such extent and such position that with one (1) fifty-foot length of hose the water may be carried into all such entries and passageways within three hundred (300) feet from the bottom of each of said shafts and into the corresponding area in slope and drift mines, such area to be designated in this Act as the fire-protected area.

(c) Provided, that in mines having one hundred and twenty-five (125) feet or less head at the bottom of the incoming supply pipe, the incoming pipes and the pipes having hose connections shall be not less than three (3) inches in diameter. The pipes in the mine shall have hose connections not more than fifty (50) feet apart beginning at the bottom of the incoming supply pipe or pipes.

(d) There shall be kept constantly on hand at the bottom of each shaft where hose connections are required, in condition for immediate use, not less than two (2) fifty (50) foot lengths of one and one-half ($1\frac{1}{2}$) inch inside diameter linen hose or rubber-lined cotton hose, which shall have been tested to a pressure of two hundred (200) pounds to the square inch; all of such hose and connections therefor on the supply pipes shall have American standard iron-pipe threads. The nozzles on such hose shall be not less than three-eighths ($\frac{3}{8}$) nor more than five-eighths ($\frac{5}{8}$) inch in diameter.

(e) Where any part of any passage or other excavation within one hundred and fifty (150) feet of the bottom of the hoisting shaft or the air and escapement shaft, designated as such under the law and in the corresponding area in slope or drift mines, is timbered, with cribbing or more than one layer of lagging, not including caps or wedges, above the cross bars, there shall be two lines of automatic sprinklers on the under side of such timbering, attached to not less

than one and one-half ($1\frac{1}{2}$) inch pipes connected with the fire-fighting water supply, and such sprinklers shall not be more than ten (10) feet apart.

(f) In cribbing or lagging as last aforesaid, which is more than three (3) feet in vertical thickness, there shall be also, as near the top thereof as is practicable, automatic sprinklers connected with the water supply as last aforesaid, and there shall be one such sprinkler for each eight (8) feet square or horizontal area of such cribbing or lagging.

(g) In every underground stable, located within one thousand (1,000) feet of the hoisting shaft or the air and escapement shaft designated as such under the law, there shall not be less than one (1) automatic water sprinkler for each area eight (8) feet square in said stable; such automatic sprinklers shall be connected with iron or steel pipes not less than one and one-half ($1\frac{1}{2}$) inches in diameter along the roof or ceiling in the stable, which shall be connected with the fire-fighting water supply.

(h) All automatic sprinklers shall be of the fusible plug type and shall not require a temperature of more than one hundred and sixty-five (165) degrees Fahrenheit to release the water.

(i) In all underground stables other than those heretofore in this Act referred to, there shall be kept barrels full of water and two metal pails with each barrel. Such barrels shall be not more than fifty (50) feet apart, and there shall not be less than two (2) barrels full of water and two (2) metal pails with each barrel in each entry or passageway into which such stable opens and not more than fifty (50) feet from the opening of the stable.

(j) There shall also be one (1) not less than two and one-half ($2\frac{1}{2}$) gallons chemical fire extinguishers, or its equivalent, as approved by the Department of Mines and Minerals, and two (2) not less than six (6) gallon hand-pump buckets in each stable and in each entry or passageway into which such stable opens not more than fifty (50) feet from the opening of such stable: Provided, that in mines employing ten (10) men or less underground the chemical fire extinguishers shall not be required. Such chemical fire extinguishers and hand-pump buckets shall be kept filled and ready for use.

(k) Provided, however, that in coal mines in which less than ten (10) men are employed, in which there are no stables, in lieu of said water supply with pipes and hose, there may be substituted the following: There shall be kept within the fire protected area in each such mine barrels full of water not more than fifty (50) feet apart, and with each barrel there shall be two metal buckets; and there shall also be kept within said area not less than six (6) hand-pump buckets of not less than six (6) gallons capacity, and said buckets shall be kept filled and ready for use.

(l) A barrel within the meaning of this Act shall be any substantial vessel holding not less than fifty (50) gallons.

(m) All mines shall have at least one, not less than two and one-half ($2\frac{1}{2}$) gallon chemical fire extinguisher, or its equivalent, as approved by the Department of Mines and Minerals, and one not less than six (6) gallon hand-pump bucket, including those heretofore in this Act required, for each fifty (50) employees in the mine, with a minimum of six (6) extinguishers and six (6) pump buckets, kept at convenient places designated by the mine manager throughout the mine, and three (3) fire extinguishers of two and one-half ($2\frac{1}{2}$) gallons each, or its equivalent as approved by the Department of Mines and Minerals, in each building located within one hundred (100) feet of any shaft, drift or slope, and such extinguishers shall be recharged once every six months and a record made of the date of recharging in the mine examiner's report book: Provided, this does not apply to buildings constructed of fireproof material. Such extinguishers and buckets shall be kept filled and ready for use: Provided,

that in mines employing ten (10) men or less underground, the chemical fire extinguishers shall not be required.

SEC. 6. The following requirements also shall apply to all coal mines developed within the State of Illinois after the passage of this Act: "Provided, that paragraphs (a) and (b) shall not apply to mines where ten (10) men or less are employed."

(a) The hoisting shaft and the air and escapement shaft designated as such under the law in shaft mines and the air and escapement shaft nearest the main opening in slope or draft (drift) mines shall be of fireproof construction, except that cage guides may be wood. All drifts and slopes that are opened after the passage of this Act must be of fireproof construction for a distance of three hundred (300) feet from the entrance: Provided, that this section shall not apply to shafts in actual course of construction at the time this Act takes effect.

(b) The roof and walls of the passageways leading from the bottom of the hoisting shaft and the air and escapement shaft designated as such under the law, within a distance of three hundred (300) feet from the bottom of either of said shafts, shall be of fireproof construction, except that the coal rib or pillar may be used as a wall in such passageways.

(c) All underground stables and the openings therein shall be of fireproof construction.

Stables in mines opened after the passage of this Act shall not be located between the main and escapement shaft, or in direct line on the ventilating current or on passageways leading to the escapement shaft or shafts.

(d) At mines constructed in conformity with the requirements of this section of this Act, the fire-fighting equipment described in section 2, and the fire drill described in section 5 of this Act shall not be required, except that there shall be kept at convenient places designated by the mine manager, throughout each mine, one not less than two and one-half ($2\frac{1}{2}$) gallons chemical fire extinguisher, or its equivalent as approved by the Department of Mines and Minerals, and one not less than six (6) gallon hand-pump bucket for each fifty (50) employees in the mine with a minimum of six (6) extinguishers and six (6) pump buckets, and such extinguishers and buckets shall be kept filled and ready for use: Provided, that in mines employing ten (10) men or less underground, the chemical fire extinguishers shall not be required.

MINING INVESTIGATING COMMISSION.

INVESTIGATING COMMISSION. (SEE PAGE 124.)

LAWS 1917, P. 599.

JUNE 27, 1917.

"AN ACT To establish a Mining Investigation Commission of the State of Illinois," and to make appropriation therefor.

SEC. 1. Be it enacted, etc.:

That a commission be established to be known as the Mining Investigation Commission of the State of Illinois, consisting of three coal-mine owners and three coal miners appointed by the Governor, together with three qualified men, no one of whom shall be identified or affiliated with the interests of either of the mine owners or coal miners or dependent upon the patronage or good will of either, nor in political life who shall be appointed by the Governor.

Each member of the said commission shall have equal authority, power, and voting strength in considering and acting upon any matters which may be brought to the attention of the commission and on which the commission may act and the said commission shall have power and authority to investigate the

methods and conditions of mining coal in the State of Illinois, with special reference to the safety of human lives and property and the conservation of coal deposits.

SEC. 2. In making an investigation as contemplated in this Act, said commissioners shall have the power to issue subpoenas for the attendance of witnesses, which shall be under the seal of the commission and signed by the chairman or secretary of said commission.

In case any person shall willfully fail or refuse to obey such subpoena, it shall be the duty of the Circuit Court of any county, upon application of the said commissioners, to issue an attachment for such witness, and compel such witness to attend before the commissioners, and give his testimony upon such matters as shall be lawfully required by such commissioners; and the said court shall have the power to punish for contempt, as in other cases of refusal to obey the process and order of such court.

The fees of witnesses shall be the same as in the courts of record and shall be paid out of the appropriation hereinafter made.

And upon order duly entered of record by the said commission any one or more members of the said commission shall be empowered to take testimony touching the matters within the jurisdiction of the said commission and report the same to the said commission.

Said commission shall have power and are authorized to adopt a seal and to make such rules not inconsistent with or contrary to law for the government of proceedings before it, as it may deem proper and shall have the same power to enforce such rules and to preserve order and decorum in its presence as is vested by the common law or statute of this State in any court of general jurisdiction.

SEC. 3. Said commission shall meet at the State capitol building in Springfield on the second Tuesday after notice of their appointment and shall immediately elect a chairman and secretary from among their number, one of whom shall be a coal mine owner and the other a coal miner. Said commission shall cause a record to be kept of all its proceedings.

Five members of the said commission shall constitute a quorum for the transaction of business, but a less number than a quorum may adjourn the meeting of the commission from time to time.

Meetings of the said commission other than called meetings, as provided for herein, may be held at such times and places within the State of Illinois, as may be fixed by the said commission.

A meeting of the said commission shall be held upon the written request of any three members of the said commission signed by them and delivered to the secretary, who shall, upon receipt of such request, notify each member of said commission by mail of such meeting so to be held, and the time and place thereof. And no such meeting shall be held less than five days after the mailing of notice of the said meeting to the members of said commission by the secretary.

Such called meeting shall be held either in Springfield or Chicago.

SEC. 4. Said commission shall report to the Governor and to the General Assembly at its next regular session, submitting—so far as they have unanimously agreed, a proposed provision (revision) of coal mining laws of the State, together with such other recommendations as to the commission shall seem fit and proper relating to coal mining in the State of Illinois.

And where there is not unanimous agreement upon any recommendation there shall be submitted in like manner separate reports embodying the recommendations of any one or more members of the said commission, which said reports shall each set forth in detail the recommendation of the commissioner or commissioners signing said report and shall embody his or their respective reasons for such recommendation and his or their objection to the report of other mem-

bers of the commission. The duties and functions of said commission shall cease and the terms of office of the respective commissions (commissioners) shall terminate upon the adjournment of the Fifty-first General Assembly.

SEC. 5. The members of said commission who are coal-mine owners and coal miners, as aforesaid, shall receive no compensation for their services. The remaining three members of the commission shall receive as compensation for their services the sum of \$10.00 per day for each day actually employed by them as such commissioners. All members of the said commission shall be reimbursed for their actual expenses incurred in and about the actual work of said commission.

Said commission may appoint a stenographer or clerk and such other employees as are necessary and shall fix their compensation and may incur such other expenses as are properly incidental to the work of the commission.

SEC. 6. The sum of seven thousand dollars (\$7,000.00), or as much thereof as may be necessary, is hereby appropriated for the postage, stationery, clerical and expert services, and incidental traveling expenses of the commission, and the per diem of members as herein authorized, and the Auditor of Public Accounts is hereby authorized to draw his warrant for the foregoing amount, or any part thereof, in payment of any expenses, charges, or disbursements authorized by this Act, on order of this commission, signed by its chairman, attested by its secretary, and approved by the Governor.

The Department of Public Works and Buildings is hereby authorized and directed to provide all necessary printing for the Mining Investigating Commission, and testimony taken by it shall be reported in full and may be published from time to time by the commission.

MINING OPERATIONS.

VENTILATION. (SEE PAGE 219.)

LAWS 1917, P. 602.

JUNE 27, 1917.

AN ACT To amend an Act entitled 'An Act to revise the law in relation to coal mines and subjects relating thereto and providing for the health and safety of persons employed therein,' approved June 6, 1911, in force July 1, 1911, as subsequently amended by amending section fourteen (14) thereof.

SEC. 1. Be it enacted, etc.: That an Act entitled "An Act to revise the law in relation to coal mines and subjects relating thereto and providing for the health and safety of persons employed therein," approved June 6, 1911, in force July 1, 1911, as subsequently amended, be and the same is hereby amended by amending section fourteen (14) thereof to read as follows:

SEC. 14. VENTILATION. (a) At every coal mine there shall be provided, supplied, and maintained an amount of air which shall not be less than one hundred (100) cubic feet per minute for each person, and not less than five hundred (500) cubic feet per minute for each animal in the mine, measured at the foot of the downcast and of the upcast, except that in gaseous mine(s) there shall be not less than one hundred and fifty (150) cubic feet of air per minute for each person in the mine. The inspector shall have power by order in writing to require these quantities to be increased.

(b) The main current of air shall be so split or subdivided as to give a separate current or (of) reasonably pure air to every 100 men at work, and the inspector shall have authority to order, in writing, separate currents for smaller groups of men, if, in his judgment, special conditions render it necessary.

(c) Doors, curtains, or brattices shall be placed at such places as may be designated by the mine manager, subject to the approval of the State Inspector,

to conduct into the working places an amount of air sufficient to render the working places reasonably free from deleterious air of every kind.

(d) Away from the pillar for the mine bottom, crosscuts between entries shall be made not more than sixty feet apart without permission of the State Inspector of the district, and then only in case of "faults." When such consent is given, brattice or other means must be provided within sixty feet of the face to convey the air to the working place until a crosscut is opened up.

When undercut or sheared, the entry, crosscut, and room neck may be advanced concurrently, but not more than one cutting shall be shot in the room neck until the crosscut is finished; and after the entry has advanced fifteen feet beyond the location of the new crosscut, only one shot shall be fired in the entry to two in either or both the crosscut and room neck at the same shooting time.

When not undercut or sheared, the entry and crosscut may be advanced concurrently, but no room shall be opened in advance of the last open crosscut, and after the entry has advanced fifteen feet beyond the location of a new crosscut only one shot shall be fired in the entry to two in the crosscut at the same shooting time.

Not more than three shots shall be exploded at one shooting time ahead of the last open crosscut.

(e) After the taking effect of this Act, the first crosscut between all rooms off any entry shall not be more than sixty (60) feet from the rib of the entry. Additional crosscuts shall not be more than sixty (60) feet apart: Provided, however, that if in any mine the conditions are such that in the judgment of the duly accredited representative of the Department of Mines and Minerals, expressed in writing, it is considered equally safe and more advantageous to leave a blind pillar between not less than every three rooms, the Department of Mines and Minerals shall have power to grant the authority to leave said pillar subject to review by the Department of Mines and Minerals on formal complaint of the representative of either party in interest and after an open hearing.

(f) All crosscuts connecting inlet and outlet air courses, except the last one nearest the face, shall be closed with substantial stoppings to be made as nearly air-tight as possible. In the making of the air-tight partitions or stoppings, no loose material or refuse shall be used.

Crosscuts between rooms, except the one nearest the face, shall be closed sufficiently to carry to the working places the amount of air required by law.

(g) All possible care and diligence shall be exercised in the examination of working places, especially for the investigation and detection of explosive gases therein, and where found such gas shall be removed by a special current of air produced by bratticing or from a pipe before men are permitted to work in such places with other lights than safety lamps.

(h) If, in any mine, the conditions are such that, in the judgment of the mine manager or the judgment of the State Mine Inspector expressed in writing, it is necessary to use safety lamps only in working said mine, other lights shall not be used therein.

(i) The air from the outlet of the stable shall not pass into the intake air current used for ventilating the working parts of the mine.

(j) All doors in mines used in guiding and directing the ventilating currents shall be hung and adjusted so as to close automatically.

(k) At all doors through which three or more drivers are hauling coal on any one shift an attendant shall be employed on said shaft (shift) for the purpose of opening and closing said doors when trips of cars are passing to and from the workings: Provided, the mine inspector in case of specially dangerous conditions shall have power to require in writing that an attendant be placed at doors through which less than three drivers shall pass. Places for shelter

shall be provided at such doorways to protect the attendants from being injured by the cars while attending to their duties: Provided, that in any or all mines, where doors are constructed in such a manner as to open and close automatically, attendants and places for shelter shall not be required.

(l) If the inspector shall find men working without the amount of air required by law he shall at once notify the mine manager to increase the amount of air in accordance with the law. Upon the failure or refusal of the manager to act promptly, and in all cases where men are endangered by such lack of air, the inspector shall at once order the men affected out of the mine.

(m) In case the passageways, roadways, or entries of any mine are so dry that the air becomes charged with dust the operator of such mine must have such roadways regularly and thoroughly sprayed, sprinkled, or cleaned.

(n) At all mines employing over one hundred (100) men underground and in all mines generating fire damp, the ventilating fan shall be run both day and night; at all mines employing less than one hundred (100) men underground, the fan shall be run at its usual speed for six (6) hours before men go into the mine to work. A recording pressure gauge shall be maintained in connection with each fan at all times: Provided, nothing in this clause shall apply to mines employing ten men or less.

WORKMEN'S COMPENSATION ACT.

AMENDATORY ACT. (SEE PAGES 403, 418.)

LAWS 1917, P. 490.

MAY 31, 1917.

AN ACT to amend section 2, section 3, section 5, section 7, section 8, section 13, section 14, section 16, section 19, and section 31 of an Act entitled, "An Act, etc." (same as in section 1).

SEC. 1. Be it enacted, etc.: That section 2, section 3, section 5, section 7, section 8, section 13, section 14, section 16, section 19, and section 31 of an Act entitled, "An Act to promote the general welfare of the people of this State by providing compensation for accidental injuries or death suffered in the course of employment within this State; providing for the enforcement and administering thereof and a penalty for its violation, and repealing an Act entitled, 'An Act to promote the general welfare of the people of this State by providing compensation for accidental injuries or death suffered in the course of employment,' approved June 10, 1911, in force May 1, 1912," approved June 28, 1913, and in force July 1, 1913, as amended by an Act approved June 28, 1915, and in force July 1, 1915, be amended and that said Act as amended be further amended by adding thereto one additional section to be known as section 3½, which said section (sections) as hereby amended and said additional section, shall read as follows:

SEC. 2. Every employer enumerated in section 3, paragraph (b) shall be conclusively presumed to have filed notice of his election, as provided in section 1, paragraph (a), and to have elected to provide and pay compensation according to the provisions of this Act, unless and until notice in writing of his election to the contrary is filed with the industrial board. Such notice of non-election may be withdrawn, as provided in this Act.

SEC. 3. (a) In any action to recover damages against an employer engaging in any of the enterprises or businesses enumerated in paragraph (b) of this section, who shall elect not to provide and pay compensation to any employee, according to the provisions of this Act, it shall not be a defense; that:

First—The employee assumed the risks of the employment;

Second—The injury or death was caused in whole or in part by the negligence of a fellow servant; or

Third—The injury or death was proximately caused by the contributory negligence of the employee.

(b) The provisions of paragraph (a) of this section shall apply to any employer engaging in any of the following enterprises or businesses, namely:

1. The erection, maintaining, removing, remodeling, altering, or demolishing of any structure, except as provided in subsection 8 of this section.

2. Construction, excavating, or electrical work, except as provided in subsection 8 of this section.

3. Carriage by land or water and loading or unloading in connection therewith.

4. The operation of any warehouse or general or terminal storehouses.

5. Mining, surface mining, or quarrying.

6. Any enterprise in which explosive materials are manufactured, handled, or used in dangerous quantities.

7. In any enterprise wherein molten metal, or explosive or injurious gases or vapors, or inflammable vapors or fluids, or corrosive acids are manufactured, used, generated, stored, or conveyed in dangerous quantities;

8. In any enterprise in which statutory or municipal ordinance regulations are now or shall hereafter be imposed for the regulating, guarding, use or the placing of machinery or appliances, or the protection and safeguarding of the employees or the public therein; each of which occupations, enterprises, or businesses are hereby declared to be extra-hazardous; Provided, nothing contained herein shall be construed to apply to any work, employment, or operations done, had or conducted by farmers and others engaged in farming, tillage of the soil, or stock raising, or to those who rent, demise, or lease land for any of such purposes, or to anyone in their employ, or to any work done on a farm, or country place, no matter what kind of work or service is being done or rendered.

SEC. 3½. (a) If the plaintiff in any action mentioned in section 3 shall in his declaration or in his other pleading allege that the employer has filed notice of his election not to provide and pay compensation according to the provisions of the Workmen's Compensation Act and such allegations be not denied by a verified pleading, then such employer shall for the purposes of that action be conclusively presumed to have filed his notice of nonelection.

(b) A certificate of the fact of the filing by an employer of the notice of nonelection provided in section 2 and of the nonwithdrawal thereof shall be prima facie proof in any action mentioned in section 3 of the fact of the filing of such notice of nonelection and of the nonwithdrawal thereof. Such certificate may be under the seal of the industrial board and signed by any member or the secretary thereof, of which seal and signature as such officer the court shall take judicial notice. Said certificate may be in substantially the following form:

This is to certify that the attached is a correct copy of notice filed with the Industrial board by ——— on the — day of ———, 19—, electing not to provide and pay compensation according to the provisions of the Workmen's Compensation Act of Illinois, and that the original of said notice is now on file in the office of the Industrial board and has not been withdrawn since the date of the filing thereof.

In witness whereof, this certificate has been subscribed and the seal of the Industrial board affixed this ——— day of ———, 19—.

—————,
————— of Industrial Board.

SEC. 5. The term "employee" as used in this Act, shall be construed to mean:

First—Every person in the service of the State, county, city, town, township, incorporated village, or school district, body politic or municipal corporations

therein, under appointment, or contract of hire, express or implied, oral or written, except any official of the State, or of any county, city, town, township, incorporated village, school district, body politic or municipal corporation therein: Provided, that any such employee, his personal representative, beneficiaries or heirs, who is, are or shall be entitled to receive a pension or benefit for or on account of disability or death arising out of or in the course of his employment from a pension or benefit fund to which the State or any county, town, township, incorporated village, school district, body politic or municipal corporation therein is a contributor, in whole or in part, shall be entitled to receive only such part of such pension or benefit as is in excess of the amount of compensation recovered and received by such employee, his personal representative, beneficiaries or heirs under this Act. And provided, further, that one employed by a contractor who has contracted with the State or a county, city, town, township, incorporated village, school district, body politic or municipal corporation, therein, through its representatives, shall not be considered, as an employee of the State, county, city, town, township, incorporated village, school district, body politic or municipal corporation which made the contract.

Second—Every person in the service of another under any contract of hire, express or implied, oral or written, including aliens, and minors who are legally permitted to work under the laws of the State, who, for the purpose of this Act, shall be considered the same and have the same power to contract, receive payments and give quittances therefor, as adult employees, but not including any person who is not engaged in the usual course of the trade, business, profession or occupation of his employer: Provided, that employees shall not be included within the provisions of this Act when excluded by the laws of the United States relating to liability of employers to their employees for personal injuries where such laws are held to be exclusive.

SEC. 7. The amount of compensation which shall be paid for an injury to the employee resulting in death shall be:

(a) If the employee leaves any widow, child or children whom he was under legal obligation to support at the time of his injury, a sum equal to four times the average annual earnings of the employee, but not less in any event than one thousand six hundred fifty dollars and not more in any event than three thousand five hundred dollars. Any compensation payments other than necessary medical, surgical, or hospital fees or services shall be deducted in ascertaining the amount payable on death.

(b) If no amount is payable under paragraph (a) of this section and the employee leaves any parent who at the time of injury was totally dependent upon the earnings of the employee, then a sum equal to four times the average annual earnings of the employee, but not less in any event than one thousand six hundred fifty dollars and not more in any event than three thousand five hundred dollars.

(c) If no amount is payable under paragraph (a) or (b) of this section and the employee leaves any parent, grandparent, or grandchild who at the time of injury was dependent upon the earnings of the employee, then such proportion of a sum equal to four times the average annual earnings of the employee as such dependency bears to total dependency, but not less in any event than one thousand six hundred fifty dollars and not more in any event than three thousand five hundred dollars. Any compensation payments other than necessary medical, surgical, or hospital fees or services shall be deducted in ascertaining the amounts payable on death.

(d) If no amount is payable under paragraphs (a), (b) or (c) of this section and the employee leaves collateral heirs dependent at the time of the injury

to the employee upon his earnings, such a percentage of the sum provided in paragraph (a) of this section as the average annual contributions which the deceased made to the support of such collateral dependent heirs during the two years preceding the injury bears to his average annual earnings during such two years.

(e) If no amount is payable under paragraph (a) or (b) or (c) or (d) of this section, a sum not to exceed one hundred and fifty dollars for burial expenses.

(f) All compensation except for burial expenses, provided for in this section to be paid in case injury results in death, shall be paid in instalments equal to one-half the average earnings, at the same intervals at which the wages or earnings of the employee were paid; or if this shall not be feasible, then the instalments shall be paid weekly: Provided, such compensation may be paid in a lump sum upon petition as provided in section 9 of this Act.

(g) The compensation to be paid for injury which results in death, as provided in this section, shall be paid at the option of the employer either to the personal representative of the deceased employee or to his beneficiaries, and shall be distributed to the heirs who formed the basis for determining the amount of compensation to be paid by the employer, the distributees' share to be in proportion of their respective dependency at the time of the injury on the earnings of the deceased: Provided, that, in the judgment of the court appointing the personal representative, a child's distributive share may be paid to the parent for the support of the child. The payment of compensation by the employer to the personal representative of the deceased employee shall relieve him of all obligations as to the distribution of such compensation so paid. The distribution by the personal representative of the compensation paid to him by the employer shall be made pursuant to the order of the court appointing him.

(h) 1. Whenever in paragraph (a) of this section a minimum of one thousand six hundred fifty dollars is provided, such minimum shall be increased in the following cases to the following amounts:

One thousand seven hundred fifty dollars in case of a widow and one child under the age of 16 years at the time of the death of the employee.

One thousand eight hundred fifty dollars in case of a widow and two or more children under the age of 16 years at the time of the death of the employee.

2. Wherever in paragraph (a) of this section a maximum of three thousand five hundred dollars is provided, such maximum shall be increased in the following cases to the following amounts:

Three thousand seven hundred fifty dollars in case of a widow and one child under the age of 16 years at the time of the death of the employee.

Four thousand dollars in case of a widow and two or more children under the age of 16 years at the time of the death of the employee.

SEC. 8. The amount of compensation which shall be paid to the employee for an injury not resulting in death shall be:

(a) The employer shall provide necessary first aid, medical, surgical, and hospital services; also medical, surgical, and hospital services for a period not longer than eight weeks, not to exceed, however, the amount of \$200.00. The employee may elect to secure his own physician, surgeon, or hospital services at his own expense.

(b) If the period of temporary total incapacity for work lasts for more than six working days, compensation equal to fifty per centum of the earnings, but not less than \$6.00 nor more than \$12.00 per week, beginning on the eighth day of such temporary total incapacity, and continuing as long as the temporary total incapacity lasts, but not after the amount of compensation paid equals the

amount which would have been payable as a death benefit under paragraph (a), section 7, if the employee had died as a result of the injury at the time thereof, leaving heirs surviving as provided in said paragraph (a), section 7.

(c) For any serious and permanent disfigurement to the hand, head, or face the employee shall be entitled to compensation for such disfigurement, the amount fixed by agreement or by arbitration in accordance with the provisions of this Act, which amount shall not exceed one-quarter of the amount of the compensation which would have been payable as a death benefit under paragraph (a), section 7, if the employee had died as a result of the injury at the time thereof, leaving heirs surviving, as provided in said paragraph (a), section 7: Provided, that no compensation shall be payable under this paragraph where compensation is payable under paragraph (d), (e) or (f) of this section: And provided, further, that when the disfigurement is to the hand, head, or face as a result of any injury, for which injury compensation is not payable under paragraph (d), (e) or (f) of this section, compensation for such disfigurement may be had under this paragraph.

(d) If, after the injury has been sustained, the employee as a result thereof becomes partially incapacitated from pursuing his usual and customary line of employment, he shall, except in the cases covered by the specific schedule set forth in paragraph (e) of this section, receive compensation, subject to the limitations as to time and maximum amounts fixed in paragraphs (b) and (h) of this section, equal to fifty per centum of the difference between the average amount which he earned before the accident, and the average amount which he is earning or is able to earn in some suitable employment or business after the accident. In the event the employee returns to the employment of the employer in whose service he was injured, the employee shall not be barred from asserting a claim for compensation under this Act: Provided, notice of such claim is filed with the industrial board within eighteen months after he returns to such employment, and the said board shall immediately send to the employer, by registered mail, a copy of such notice.

(e) For injuries in the following schedule the employee shall receive, in addition to compensation during the period of temporary total incapacity for work resulting from such injury, in accordance with the provisions of paragraphs (a) and (b) of this section, compensation for a further period, subject to the limitations as to time and amounts fixed in paragraphs (b) and (h) of this section, for the specific loss herein mentioned, as follows, but shall not receive any compensation for such injuries under any other provision of this Act:

1. For the loss of a thumb, or the permanent and complete loss of its use, fifty per centum of the average weekly wage during sixty weeks;
2. For the loss of a first finger, commonly called the index finger, or the permanent and complete loss of its use, fifty per centum of the average weekly wage during thirty-five weeks;
3. For the loss of a second finger, or the permanent and complete loss of its use, fifty per centum of the average weekly wage during thirty weeks;
4. For the loss of a third finger, or the permanent and complete loss of its use, fifty per centum of the average weekly wage during twenty weeks;
5. For the loss of a fourth finger, commonly called the little finger, or the permanent and complete loss of its use, fifty per centum of the average weekly wage during fifteen weeks;
6. The loss of the first phalange of the thumb, or of any finger, shall be considered to be equal to the loss of one-half of such thumb, or finger, and compensation shall be one-half the amounts above specified;
7. The loss of more than one phalange shall be considered as the loss of the entire finger or thumb: Provided, however, that in no case shall the amount

received for more than one finger exceed the amount provided in this schedule for the loss of a hand;

8. For the loss of a great toe, fifty per centum of the average weekly wage during thirty weeks;

9. For the loss of one toe other than the great toe, fifty per centum of the average weekly wage during ten weeks, and for the additional loss of one or more toes other than the great toe, fifty per centum of the average weekly wage during an additional ten weeks;

10. The loss of the first phalange of any toe shall be considered to be equal to the loss of one-half of such toe, and compensation shall be one-half of the amount above specified;

11. The loss of more than one phalange shall be considered as the loss of the entire toe;

12. For the loss of a hand, or the permanent and complete loss of its use, fifty per centum of the average weekly wage during one hundred and fifty weeks;

13. For the loss of an arm, or the permanent and complete loss of its use, fifty per centum of the average weekly wage during two hundred weeks;

14. For the loss of a foot, or the permanent and complete loss of its use, fifty per centum of the average weekly wage during one hundred and twenty-five weeks;

15. For the loss of a leg, or the permanent and complete loss of its use, fifty per centum of the average weekly wage during one hundred and seventy-five weeks;

16. For the loss of the sight of an eye or for the permanent and complete loss of its use, fifty per centum of the average weekly wage during one hundred weeks;

17. For the permanent partial loss of use of a member or sight of an eye, fifty per centum of the average weekly wage during that proportion of the number of weeks in the foregoing schedule provided for the loss of such member or sight of an eye which the partial loss of use thereof bears to the total loss of use of such member or sight of eye;

18. The loss of both hands, or both arms, or both feet, or both legs, or both eyes, or of any two thereof, shall constitute total and permanent disability, to be compensated according to the compensation fixed by paragraph (f) of this section: Provided, that these specific cases of total and permanent disability shall not be construed as excluding other cases.

(f) In case of complete disability, which renders the employee wholly and permanently incapable of work, compensation equal to fifty per centum of his earnings, but not less than \$6.00 nor more than \$12.00 per week, commencing on the day after the injury and continuing until the amount paid equals the amount which would have been payable as a death benefit under paragraph (a) section 7, if the employee had died as a result of the injury at the time thereof, leaving heirs surviving, as provided in said paragraph (a), section 7, and thereafter a pension during life annually equal to 8 per cent of the amount which would have been payable as a death benefit under paragraph (a), section 7, if the employee had died as a result of the injury at the time thereof, leaving heirs surviving, as provided in said paragraph (a), section 7. Such pension shall not be less than \$10.00 per month and shall be payable monthly.

(g) In case death occurs as a result of the injury before the total of the payments made equals the amount payable as a death benefit, then in case the employee leaves any widow, child or children, parents, grandparents, or other lineal heirs, entitled to compensation under section 7, the difference between the compensation for death and the sum of the payments made to the employee

shall be paid, at the option of the employer, either to the personal representative or to the beneficiaries of the deceased employee, and distributed, as provided in paragraph (f) of section 7, but in no case shall the amount payable under this paragraph be less than \$500.00.

(h) In no event shall the compensation to be paid exceed fifty per centum of the average weekly wage or exceed \$12.00 per week in amount; nor, except in cases of complete disability, as defined above, shall any payments extend over a period of more than eight years from the date of the accident. In case an injured employee shall be incompetent at the time when any right or privilege accrues to him under the provisions of this Act, a conservator or guardian may be appointed, pursuant to law, and may, on behalf of such incompetent, claim and exercise any such right or privilege with the same force and effect as if the employee himself had been competent and had claimed or exercised said right or privilege; and no limitations of time by this Act provided shall run so long as said incompetent employee is without a conservator or guardian.

(i) All compensations provided for in paragraphs (b), (c), (d), (e), and (f) of this section, other than cases of pension for life, shall be paid in installments at the same intervals at which the wages or earnings of the employee were paid at the time of the injury, or if this shall not be feasible, then the installments shall be paid weekly.

(j) 1. Wherever in this section there is a provision for fifty per centum, such per centum shall be increased five per centum for each child of the employee under 16 years of age at the time of the injury to the employee until such per centum shall reach a maximum of sixty-five per centum.

2. Wherever in this section a weekly minimum of \$6.00 is provided, such minimum shall be increased in the following cases to the following amounts:

\$6.50 in case of an employee with one child under the age of 16 years at the time of injury to the employee.

\$7.00 in case of an employee with two children under the age of 16 years at the time of injury to the employee.

\$7.50 in case of an employee with three or more children under the age of 16 years at the time of injury to the employee.

3. Wherever in this section a weekly maximum of \$12.00 is provided, such maximum shall be increased in the following cases to the following amounts:

\$13.00 in case of an employee with one child under the age of 16 years at the time of injury to the employee.

\$14.00 in case of an employee with two children under the age of 16 years at the time of injury to the employee.

\$15.00 in case of an employee with three or more children under the age of 16 years at the time of injury to the employee.

4. The increases in the above per centum and the minimum and maximum amounts shall be paid only so long as the child upon which the increase is based remains under the age of 16 years.

SEC. 13. (a) There is hereby created a board which shall be known as the Industrial Board to consist of five members to be appointed by the Governor, by and with the consent of the Senate, two of whom shall be representative citizens of the employing class operating under this Act, and two of whom shall be representative citizens of the class of employees operating under this Act, and one of whom shall be a representative citizen not identified with either the employing or employee classes and who shall be designated by the Governor as chairman. Appointment of members to places on the first board or to fill vacancies on said board may be made during recesses of the Senate, but shall be subject to confirmation by the Senate at the next ensuing session of the Legislature. The term of

office of members of this board shall be six years, expiring on January 31st, of the odd year, except that when first constituted two members shall be appointed for two years, two members for four years and one member for six years. Not more than three members of the board shall belong to the same political party.

(b) When there shall become effective the Act known as "The Civil Administrative Code of Illinois," being an Act entitled, "An Act in relation to the civil administration of the State Government," there shall thereupon be vested in the Industrial Commission and the industrial officers thereof by said Act created all of the powers and duties vested in the Industrial Board by the Workmen's Compensation Act and thereupon whenever in the Workmen's Compensation Act reference shall be made to the Industrial Board, the board or to any member thereof, it shall be construed as referring and shall apply to the said Industrial Commission, the said commission, and any industrial officer thereof, respectively.

SEC. 14. The salary of each of the members of the board so appointed by the Governor shall be five thousand dollars (\$5,000.00) per year. The board shall appoint a secretary and shall employ such assistants and clerical help as may be necessary. The salary of the arbitrators designated by the board shall be at the rate of twenty-four hundred dollars (\$2,400.00) per year. The members of the board and the arbitrators shall have reimbursed to them their actual traveling expenses and disbursements made or incurred by them in the discharge of their official duties while away from their places of residence in the performance of their duties. The board shall provide itself with a seal for the authentication of its orders, awards, and proceedings, upon which shall be inscribed the name of the board and the words "Illinois—Seal."

SEC. 16. The board may make rules and orders for carrying out the duties imposed upon it by law, which rules and orders shall be deemed prima facie reasonable and valid; and the process and procedure before the board shall be as simple and summary as reasonably may be. The board, upon application of either party, may issue dedimus potestatem directed to a commissioner, notary public, justice of the peace, or any other officer authorized by law to administer oaths, to take the depositions of such witness or witnesses as may be necessary in the judgment of such applicant. Such dedimus potestatem may issue to any of the officers aforesaid in any State or Territory of the United States or in any foreign country. The board shall have the power to adopt necessary rules to govern the issue of such dedimus potestatem. The board, or any member thereof, or any arbitrator designated by said board, shall have the power to administer oaths, subpoena and examine witnesses, to issue subpoenas duces tecum, requiring the production of such books, papers, records, and documents as may be evidence of any matter under inquiry, and to examine and inspect the same and such places or premises as may relate to the question in dispute. Said board, or any member thereof, or any arbitrator designated by said board, shall, on written request of either party to the dispute, issue subpoenas for the attendance of such witnesses and production of such books, papers, records, and documents as shall be designated in said applications, providing, however, that the parties applying for such subpoena shall advance the officer and witness fees provided for in suits pending in the Circuit Court. Service of such subpoenas shall be made by any sheriff or constable or other person. In case any person refuses to comply with an order of the board or subpoena issued by it or any member thereof, or any arbitrator designated by said board, or to permit an inspection of places or premises, or to produce any books, papers, records, or documents, or any witness refuses to testify to any matters regarding which he may be lawfully interrogated, the County Court of the county in which said hearing or matter is pending, on application of any member of the board or any arbitrator designated by the board, shall compel obedience by attachment

proceedings, as for contempt, as in a case of disobedience of the requirements of a subpoena from such court on a refusal to testify therein.

The board, at its expense, shall provide a stenographer to take the testimony and record of proceedings at the hearings before an arbitrator, committee of arbitration, or the board, and said stenographer shall furnish a transcript of such testimony or proceedings to any person requesting it upon payment to him therefor of five cents per one hundred words for the original and three cents per one hundred words for each copy of such transcript.

The board shall have the power to determine the reasonableness and fix the amount of any fee or compensation charged by any person for any service performed in connection with this Act or for which payment is to be made under this Act or rendered in securing any right under this Act.

SEC. 19. Any disputed questions of law or fact upon which the employer and employee or personal representative can not agree shall be determined as herein provided.

(a) It shall be the duty of the Industrial Board, upon notification that the parties have failed to reach an agreement, to designate an arbitrator: Provided, that if the compensation claimed is for a partial permanent or total permanent incapacity or for death, then the dispute may, at the election of either party, be determined by a committee of arbitration, which election for a determination by a committee shall be made by petitioner filing with the board his election in writing with his petition or by the other party filing with the board his election in writing within five days of notice to him of the filing of the petition, and thereupon it shall be the duty of the Industrial Board, upon either of the parties having filed their election for a committee of arbitration as above provided, to notify both parties to appoint their respective representatives on the committee of arbitration. The board shall designate an arbitrator to act as chairman, and if either party fails to appoint its member on the committee within seven days after notification as above provided, the board shall appoint a person to fill the vacancy and notify the parties to that effect. The party filing his election for a committee of arbitration shall with his election deposit with the board the sum of twenty dollars, to be paid by the board to the arbitrators selected by the parties as compensation for their services as arbitrators, and upon a failure to deposit as aforesaid the election shall be void and the determination shall be by an arbitrator designated by the board. The members of the committee of arbitration appointed by either of the parties or one appointed by the board to fill a vacancy by reason of the failure of one of the parties to appoint, shall not be a member of the board or an employee thereof.

(b) The arbitrator or committee of arbitration shall make such inquiries and investigations as he or they shall deem necessary, and may examine and inspect all books, papers, records, places, or premises relating to the questions in dispute, and hear such proper evidence as the parties may submit. The hearings before the arbitrator or committee of arbitration shall be held in the vicinity where the injury occurred, after ten days' notice of the time and place of such hearing shall have been given to each of the parties or their attorneys of record. The decision of the arbitrator or committee of arbitration shall be filed with the Industrial Board, which board shall immediately send to each party or his attorney a copy of such decision, together with a notification of the time when it was filed, and unless a petition for a review is filed by either party within fifteen days after the receipt by said party of the copy of said decision and notification of time when filed, and unless such party petitioning for a review shall within twenty days after the receipt by him of the copy of said decision file with the board either an agreed statement of the facts appearing upon the

hearing before the arbitrator or committee of arbitration, or, if such party shall so elect, a correct stenographic report of the proceedings at such hearings, then the decision shall become the decision of the Industrial Board: Provided, that such Industrial Board may for sufficient cause shown grant further time, not exceeding thirty days, in which to petition for such review or to file such agreed statement or stenographic report. Such agreed statement of facts or correct stenographic report, as the case may be, shall be authenticated by the signatures of the parties or their attorneys, and in the event they do not agree as to the correctness of the stenographic report it shall be authenticated by the signature of the arbitrator designated by the board.

(c) The Industrial Board may appoint, at its expense, a duly qualified, impartial physician to examine the injured employee and report to the board. The fee for this service shall not exceed five dollars and traveling expenses, but the board may allow additional reasonable amounts in extraordinary cases. The fees and the payment thereof of all attorneys and physicians for services authorized by the board under this Act, shall, upon request of either the employer or the employee or the beneficiary affected, be subject to the review and decision of the Industrial Board.

(d) If any employee shall persist in insanitary or injurious practices which tend to either imperil or retard his recovery or shall refuse to submit to such medical or surgical treatment as is reasonably essential to promote his recovery, the board may, in its discretion, reduce or suspend the compensation of any such injured employee.

(e) If a petition for review and agreed statement of facts or stenographic report is filed, as provided herein, the Industrial Board shall promptly review the decision of the arbitrator or committee of arbitration and all questions of law or fact which appear from the said statement of facts or stenographic report, and such additional evidence as the parties may submit. After such hearing upon review the board shall file in its office its decision thereon, and shall immediately send to each party or his attorney a copy of such decision and a notification of the time when it was filed.

Such review and hearing may be held in its office or elsewhere as the board may deem advisable: Provided, that the taking of testimony on such hearing may be had before any member of the board and in the event either of the parties may desire an argument before others of the board, such argument may be had upon written demand therefor filed with the board within five days after the commencement of such taking of testimony, in which event such argument shall be had before not less than a majority of the board: Provided, that the board shall give 10 days' notice to the parties or their attorneys of the time and place of such taking of testimony and of such argument.

In any case the board in its decision may, in its discretion, find specially upon any question or questions of law or fact which shall be submitted in writing by either party, whether ultimate or otherwise. Any party may, within twenty days after the receipt of notice of the board's decision, or within such further time, not exceeding thirty days, as the board may grant, file with the board either an agreed statement of the facts appearing upon the hearing, or, if such party shall so elect, a correct stenographic report of the additional proceedings presented before the board, in which report the party may embody a correct statement of such other proceedings in the case as such party may desire to have reviewed, such statement of facts or stenographic report to be authenticated by the signatures of the parties or their attorneys, and in the event that they do not agree, then the authentication of such stenographic report shall be by the signature of the chairman of the board. The applications for adjustment of

claim and other documents in the nature of pleadings filed by either party, together with the decisions of the arbitrator and of the Industrial Board, and the statement of facts or stenographic reports hereinbefore provided for in paragraphs (b) and (c) shall be the record of the proceedings of said board, and shall be subject to review as hereinafter provided.

(f) The decision of the Industrial Board, acting within its powers, according to the provisions of paragraph (e) of this section, and of the arbitrator or committee of arbitration, where no review is had and his or their decision becomes the decision of the Industrial Board in accordance with the provisions of this section, shall, in the absence of fraud, be conclusive unless reviewed as in this paragraph hereinafter provided.

(1) The Circuit Court of the county where any of the parties defendant may be found shall by writ of certiorari to the Industrial Board have power to review all questions of law presented by such record. Such writ shall be issued by the clerk of such court upon praecipe. Service upon any member of the Industrial Board or the secretary thereof shall be service on the board, and service upon other parties in interest shall be by scire facias, or service may be made upon said board and other parties in interest by mailing notice of the commencement of the proceedings and the return day of the writ to the office of said board and the last-known place of residence of the other parties in interest at least ten days before the return day of said writ; or (2) any party in interest may commence a suit in chancery in the Circuit Court of the county where any of the parties defendant may be found to review the decision of the board only for errors of law appearing on the said record of the said board. Such suit by writ of certiorari or in chancery shall be commenced within twenty days of the receipt of notice of the decision of the board.

(3) No such writ of certiorari shall issue and no such suit in chancery shall be commenced by one against whom the Industrial Board shall have rendered an award for the payment of money unless such one shall upon the filing of his praecipe for such writ or upon the commencement of such suit file with the clerk of said court a bond conditioned that if he shall not successfully prosecute said writ or said suit he will pay the said award and the costs of the proceedings in said court. The amount of the bond shall be fixed by any member of the Industrial Board and the surety or sureties on said bond shall be approved by the clerk of said court.

The court may confirm or set aside the decision of the arbitrator or committee of arbitration or Industrial Board. If the decision is set aside and the facts found in the proceedings before the board are sufficient, the court may enter such decision as is justified by law, or may remand the cause to the Industrial Board for further proceedings and may state the questions requiring further hearing, and give such other instructions as may be proper.

Judgments, orders and decrees of the Circuit Court under this Act shall be reviewed only by the Supreme Court upon writ of error. Upon motion the trial court shall enter of record a certificate that the cause is, or is not, in his opinion, one proper to be reviewed by the Supreme Court. Upon filing with the clerk of the Supreme Court a certified copy of such a certificate that the cause is^a one proper to be reviewed, writ of error shall issue. If the trial court certifies that the cause is not one proper to be reviewed, the Supreme Court, in its discretion, or one of the judges of said court in vacation, may, nevertheless, order that a writ of error issue. A writ of error, when issued, shall operate as a supersedeas.

^a The Secretary of State certifies that the word "not" in the official session law is a typographical error.

The decision of a majority of the members of a committee of arbitration or of the Industrial Board shall be considered the decision of such committee or board, respectively.

(g) Either party may present a certified copy of the decision of the Industrial Board, when no proceedings for review thereof have been taken, or of the decision of such arbitrator or committee of arbitration when no claim for review is made, or of the decision of the Industrial Board after hearing upon review, providing for the payment of compensation according to this Act, to the Circuit Court of the county in which such accident occurred or either of the parties are residents, whereupon such court shall render a judgment in accordance therewith; and in case where the employer does not institute proceedings for review of the decision of the Industrial Board and refuses to pay compensation according to the award upon which such judgment is entered, the court shall, in entering judgment thereon, tax as costs against him the reasonable costs and attorney fees in the arbitration proceedings and in the court entering the judgment, for the person in whose favor the judgment is entered, which judgment and costs, taxed as herein provided, shall, until and unless set aside, have the same effect as though duly rendered in an action duly tried and determined by said court, and shall, with like effect be entered and docketed. The Circuit Court shall have power, at any time, upon application, to make any such judgment conform to any modification required by any subsequent decision of the Supreme Court upon appeal, or as the result of any subsequent proceedings for review, as provided in this Act.

Judgment shall not be entered until fifteen days' notice of the time and place of the application for the entry of judgment shall be served upon the employer by filing such notice with the Industrial Board; which board shall, in case it has on file the address of the employer or the name and address of its agent, upon whom notices may be served, immediately send a copy of the notice to the employer or such designated agent; and no judgment shall be entered in the event the employer shall file with the said board its bond, with good and sufficient surety in double the amount of the award, conditioned upon the payment of said award in the event the said employer shall fail to prosecute with effect proceedings for review of the decision, or the said decision, upon review, shall be affirmed.

(h) An agreement or award under this Act, providing for compensation in installments, may at any time within eighteen months after such agreement or award be reviewed by the Industrial Board at the request of either the employer or the employee on the ground that the disability of the employee has subsequently recurred, increased, diminished, or ended; and on such review compensation payments may be reestablished, increased, diminished, or ended: Provided, that the board shall give fifteen days' notice to the parties of the hearing for review: And provided further, any employee, upon any petition for such a review being filed by the employer, shall be entitled to one day's notice for each one hundred miles necessary to be traveled by him in attending the hearings of the board upon said petition and three days in addition thereto, and such employee shall, at the discretion of the board, also be entitled to five cents per mile necessarily traveled by him in attending such hearing, not to exceed a distance of 300 miles, to be taxed by the board as costs and deposited with the petition of the employer.

(i) Each party, upon taking any proceedings or steps whatsoever before any arbitrator, committee of arbitration, Industrial Board or court, shall file with the Industrial Board his address, or the name and address of an agent upon whom all notices to be given to such party shall be served, either personally or by registered mail addressed to such party or agent at the last address so filed

with the Industrial Board: Provided, that in the event such party has not filed his address, or the name and address of an agent, as above provided, service of any notice may be had by filing such notice with the Industrial Board.

(j) Whenever in any proceeding testimony has been taken or a final decision has been rendered, and after the taking of such testimony, or after such decision has become final, the injured employee dies, then in any subsequent proceeding brought by the personal representative or beneficiaries of the deceased employee, such testimony in the former proceeding may be introduced with the same force and effect as though the witness having so testified were present in person in such subsequent proceeding and such final decision, if any, shall be taken as a final adjudication of any of the issues which are the same in both proceedings.

SEC. 31. Any one engaging in any business or enterprise referred to in subsections 1 and 2 of paragraph (b) of section 3 of this Act who undertakes to do any work enumerated therein, shall be liable to pay compensation to his own immediate employees in accordance with the provisions of this Act, and in addition thereto if he directly or indirectly engages any contractor, whether principal or subcontractor to do any such work, he shall be liable to pay compensation to the employees of any such contractor or subcontractor unless such contractor or subcontractor shall have insured, in any company or association authorized under the laws of this State to insure the liability to pay compensation under this Act, or guaranteed his liability to pay such compensation.

In the event any such person shall pay compensation under this section he may recover the amount thereof from the contractor or subcontractor, if any, and in the event the contractor shall pay compensation under this section he may recover the amount thereof from the subcontractor, if any.

This section shall not apply in any case where the accident occurs elsewhere than on, in or about the immediate premises on which the principal has contracted that the work shall be done.

SEC. 2. Whereas, an emergency exists, therefore, this Act shall be in force and effect from and after its passage and approval by the Governor.

WORKMEN'S COMPENSATION ACT.

SECOND AMENDATORY ACT.

LAWS 1917, P. 505.

JUNE 25, 1917.

AN ACT To amend an Act entitled "An Act, etc." (same as in section 1).

SEC. 1. Be it enacted, etc.:

That an Act entitled "An Act to promote the general welfare of the people of this State by providing compensation for accidental injuries or death suffered in the course of employment within this State, providing for the enforcement and administering thereof, and a penalty for its violation, and repealing an Act entitled 'An Act to promote the general welfare of the people of this State by providing compensation for accidental injuries or death suffered in the course of employment, approved June 10, 1911, in force May 1, 1912,'" approved June 28, 1913, in force July 1, 1913, as subsequently amended be, and the same is hereby, amended by repealing section two (2) thereof and by amending sections one (1), three (3), four (4), eleven (11), thirteen (13), twenty-six (26), twenty-nine (29), and thirty-two (32) thereof to read as follows:

SEC. 1. That any employer in this State who does not come within the classes enumerated by section three (3) of this Act may elect to provide and pay compensation for accidental injuries sustained by any employee arising out of and in the course of the employment according to the provisions of this Act, and thereby relieve himself from any liability for the recovery of damages, except as herein provided.

(a) Election by any employer to provide and pay compensation according to the provisions of this Act shall be made by the employer filing notice of such election with the Industrial Board.

(b) Every employer, within the provisions of this Act, who has elected to provide (provide) and pay compensation according to the provisions of this Act, shall be bound thereby as to all his employees covered by this Act until January 1st of the next succeeding year and for terms of each year thereafter; Provided, any such employer who may have once elected, may elect not to provide and pay the compensation herein provided for accidents resulting in either injury or death and occurring after the expiration of any such calendar year by filing notice of such election with the Industrial Board at least sixty days prior to the expiration of any such calendar year, and by posting such notice at a conspicuous place in the plant, shop, office, room, or place where such employee is employed, or by personal service, in written or printed form, upon such employee at least sixty (60) days prior to the expiration of any such calendar year.

(c) In the event any employer mentioned in this section elects to provide and pay the compensation provided in this Act, then every employee of such employer, as a part of his contract of hiring, or who may be employed at the time of the taking effect of this Act and the acceptance of its provisions by such employer, shall be deemed to have accepted all the provisions of this Act and shall be bound thereby unless within thirty (30) days after such hiring, or after the taking effect of this Act, and its acceptance by such employer, he shall file a notice to the contrary with the Industrial Board, whose duty it shall be to immediately notify the employer, and until such notice to the contrary is given to the employer, the measure of liability of such employer shall be determined according to the compensation provisions of this Act: Provided, however, That any employee may withdraw from the operation of this Act upon filing a written notice of withdrawal at least ten (10) days prior to January 1st of any year with the Industrial Board, whose duty it shall be to immediately notify such employer by registered mail, and, until such notice to the contrary is given to such employer, the measure of liability of such employer shall be determined according to the compensation provisions of this Act.

(d) Any such employer or employee may, without prejudice to any existing right or claim, withdraw his election to reject this Act by giving thirty (30) days' written notice in such manner and form as may be provided by the Industrial Board.

SEC. 3. The provisions of this Act hereinafter following shall apply automatically, and without election, to all employers and their employees engaged in any of the following enterprises or businesses, which are hereby declared to be extra hazardous, namely:

1. The erection, maintaining, removing, remodeling, altering, or demolishing of any structure, except as provided in subsection 8 of this section.

2. Construction, excavating, or electrical work, except as provided in subsection 8 of this section.

3. Carriage by land or water and loading or unloading in connection therewith.

4. The operation of any warehouse or general or terminal storehouses.

5. Mining, surface mining or quarrying.

6. Any enterprise in which explosive materials are manufactured, handled, or used in dangerous quantities.

7. In any enterprise wherein molten metal, or explosive or injurious gases or vapors, or inflammable vapors or fluids, or corrosive acids are manufactured, used, generated, stored, or conveyed in dangerous quantities.

8. In any enterprise in which statutory or municipal ordinance regulations are now or shall hereafter be imposed for the regulating, guarding, use, or the

placing of machinery or appliances, or for the protection and safeguarding of the employees or the public therein; each of which occupations, enterprises, or business are hereby declared to be extra hazardous; Provided, nothing contained herein shall be construed to apply to any work, employment, or operations done, had, or conducted by farmers and others engaged in farming, tillage of the soil, or stock raising, or to those who rent, demise or lease land for any such purposes, or to anyone in their employ, or to any work done on a farm or country place, no matter what kind of work or service is being done or rendered.

SEC. 4. The term "employer" as used in this Act shall be construed to be:

First: The State, and each county, city, town, township, incorporated village, school district, body, politic, or municipal corporation therein.

Second: Every person, firm, public or private corporation, including hospitals, public service, eleemosynary, religious or charitable corporations or associations who has any person in service or under any contract for hire, express or implied, oral or written, and who is engaged in any of the enterprises or businesses enumerated in section three (3) of this Act, or who at or prior to the time of the accident to the employee for which compensation under this Act may be claimed, shall, in the manner provided in this Act, have elected to become subject to the provisions of this Act, and who shall not, prior to such accident, have effected a withdrawal of such election in the manner provided in this Act.

SEC. 11. The compensation herein provided, together with the provisions of this Act shall be the measure of the responsibility of any employer engaged in any of the enterprises or businesses enumerated in section three (3) of this Act, or of any employer who is not engaged in any such enterprises or businesses, but who has elected to provide and pay compensation for accidental injuries sustained by any employee arising out of and in the course of the employment according to the provisions of this act, and whose election to continue under this Act, has not been nullified by any action of his employees as provided for in this act.

SEC. 13. (a) There is hereby created a board which shall be known as the Industrial Board to consist of five members to be appointed by the Governor, by and with the consent of the Senate, two of whom shall be representative citizens of the employing class operating under this Act, and two of whom shall be representative citizens of the class of employees operating under this Act, and one of whom shall be a representative citizen not identified with either the employing or employee classes and who shall be designated by the Governor as chairman. Appointment of members to places on the first board or to fill vacancies on said board may be made during recesses of the Senate, but shall be subject to confirmation by the Senate at the next ensuing session of the Legislature.

(b) When there shall become effective the Act known as "The Civil Administrative Code of Illinois," being an Act entitled "An Act in relation to the civil administration of the state Government," there shall thereupon be vested in the Industrial Commission and the industrial officers thereof by said Act created, all of the powers and duties vested in the Industrial Board by the Workmen's Compensation Act, and thereupon wherever in the Workmen's Compensation Act reference shall be made to the Industrial Board, the board, or to any member thereof, it shall be construed as referring and shall apply to the said Industrial Commission, the said commission, and any industrial officer thereof, respectively.

SEC. 26. (a) Any employer who shall come within the provisions of section three (3) of this Act and any other employer who shall elect to provide and pay the compensation provided for in this Act, shall, within ten (10) days of receipt by the employer of a written demand by the Industrial Board (1) file with the board a sworn statement showing his financial ability to pay the com-

compensation provided for in this Act, normally required to be paid, or (2) furnish security, indemnity, or a bond guaranteeing the payment by the employer of the compensation provided for in this Act normally required to be paid, or (3) insure to a reasonable amount his normal liability to pay such compensation in some corporation, association, or organization authorized, licensed or permitted to do such insurance business in this State, or (4) make some other provisions for the securing of the payment of compensation, provided for in this Act, normally required to be paid, and shall, within twenty (20) days of the receipt of such written demand, furnish to the board evidence of his compliance with one of the above alternatives: Provided, that the sworn statement of financial ability, or security, indemnity or bond, or amount of insurance or other provisions filed, furnished, carried, or made by the employer, as the case may be, shall be subject to the approval of the board, upon the approval of which the board shall send to the employer written notice of its approval thereof; And provided further, that demand shall not be made upon the employer by the board oftener than once in any calendar year.

(b) If no sworn statement or no security, indemnity, bond, or no insurance is filed, furnished, or carried, or other provisions made by the employer within ten (10) days of receipt by the employer of the written demand provided for in paragraph (a), or if the statement, security, indemnity bond or amount of insurance filed, furnished or carried, or other provision made by the employer, as provided in paragraph (a) shall not be approved by the board, and written notice of such nonapproval shall be given to the employer and the employer shall not comply with one of the alternatives of paragraph (a) of this section within ten (10) days after the receipt by the employer of such written notice of nonapproval, then the employer shall be liable for compensation to any injured employee, or his personal representative, according to the terms of this Act, or for damages in the same manner as if this Act had not been passed, at the option of such employee or his personal representative: Provided, that it shall be no defense in favor of such employer in such case that (1) the employee assumed the risks of the employment, (2) the injury or death was caused in whole or in part by the negligence of a fellow servant, (3) the injury or death was proximately caused by the contributory negligence of the employees: Provided, such option is exercised, and written notice thereof is given to the employer within thirty (30) days after the accident to such employee; otherwise the employer shall be liable only for the compensation payable according to the provisions of this Act: And, provided, further, that if at any time thereafter the employer shall comply with any of the alternatives of paragraph (a), then, as to all accidents occurring after the said compliance, the employer shall only be liable for compensation according to the terms of this Act: And, provided, further, that upon the failure of any employer to comply with the provisions of this section the Industrial Board may, for the purpose of furnishing notice to the employees of such employer, publish the fact of such failure by such employer in any newspaper having a general circulation in the county where such employer does business.

Sec. 29. Where an injury or death for which compensation is payable by the employer under this Act was not proximately caused by the negligence of the employer or his employees, and was caused under circumstances creating a legal liability for damages in some person other than the employer to pay damages, such other person having also elected to be bound by this Act, or being bound thereby under section three (3) of this Act, then the right of the employee or personal representative to recover against such other person shall be subrogated to his employer, and such employer may bring legal proceedings against such other person to recover the damages sustained in an amount not exceeding the

aggregate amount of compensation payable under this Act, by reason of the injury or death of such employee. Where the injury or death for which compensation is payable under this Act was not proximately caused by the negligence of the employer or his employees, and was caused under circumstances creating a legal liability for damages on the part of some person other than the employer to pay damages, such other person having elected not to be bound by this Act, then legal proceedings may be taken against such other person to recover damages, notwithstanding such employer's payment of or liability to pay compensation under this Act; but in such case if the action against such other person is brought by the injured employee or his personal representative and judgment is obtained and paid, or settlement is made with such other person, either with or without suit, then from the amount received by such employee or personal representative there shall be paid to the employer the amount of compensation paid or to be paid by him to such employee or his personal representative: Provided, that if the injured employee or his personal representative shall agree to receive compensation from the employer or to institute proceedings to recover the same or accept from the employer any payment on account of such compensation, such employer shall be subrogated to all the rights of such employee or personal representative, and may maintain, or in case an action has already been instituted, may continue an action either in the name of the employee or personal representative or in his own name against such other person for the recovery of damages to which but for this section the said employee or personal representative would be entitled, but such employer shall nevertheless pay over to the injured employee or personal representative all sums collected from such other person by judgment or otherwise in excess of the amount of such compensation paid or to be paid under this Act, and all costs, attorneys' fees, and reasonable expenses incurred by such employer in making such collection and enforcing such liability.

SEC. 32. If any of the provisions of this Act providing for compensation for injuries to or death of employees shall be repealed or adjudged invalid or unconstitutional, the period intervening between the occurrence of any injury or death and such repeal or final adjudication of invalidity, shall not be computed as a part of the time limited by law for the commencement of any action relating to such injury or death, but the amount of any compensation which may have been paid for any such injury shall be deducted from any judgment for damages recovered on account of such injury. Any claim, disagreement or controversy existing or arising under "An Act to promote the general welfare of the people of this State, by providing compensation for accidental injuries or death suffered in the course of employment," approved June 10, 1911, in force May 1, 1912, shall be adjusted in accordance with the provisions of said Act, notwithstanding the repeal thereof, or may by agreement of the parties be adjusted in accordance with the method of procedure provided in this Act for the adjustment of differences, jurisdiction to adjust such differences so submitted by the parties being hereby conferred upon the Industrial Board or committee of arbitration provided for in this Act. (See page 394.)

SEC. 2. Section two of an Act entitled "An Act to promote the general welfare of the people of this State by providing compensation for accidental injuries or death suffered in the course of employment within this State; providing for the enforcement and administering thereof, and a penalty for its violation, and repealing an Act entitled 'An Act to promote the general welfare of the people of this State by providing compensation for accidental injuries or death suffered in the course of employment, approved June 10, 1911, in force May 1, 1912,'" approved June 28, 1913, in force July 1, 1913, as subsequently amended, is hereby repealed.

PUBLICATIONS RELATING TO MINING LAWS.

A limited supply of the following publications of the Bureau of Mines has been printed and is available for free distribution until the edition is exhausted. Requests for all publications can not be granted, and to insure equitable distribution applicants are requested to limit their selection to publications that may be of especial interest to them. Requests for publications should be addressed to the Director, Bureau of Mines.

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PUBLICATIONS AVAILABLE FOR FREE DISTRIBUTION.

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BULLETIN 90. Abstracts of current decisions on mines and mining, December, 1913, to September, 1914, by J. W. Thompson. 1915. 176 pp.

BULLETIN 101. Abstracts of current decisions on mines and mining, October, 1914, to April, 1915, by J. W. Thompson. 1915. 138 pp.

BULLETIN 118. Abstracts of current decisions on mines and mining, reported from October to December, 1915, by J. W. Thompson. 1916. 74 pp.

BULLETIN 126. Abstracts of current decisions on mines and mining, reported from January to April, 1916, by J. W. Thompson. 1916. 90 pp.

BULLETIN 152. Abstracts of current decisions on mines and mining, reported from January to April, 1917, by J. W. Thompson. 1917. 79 pp.

BULLETIN 159. Abstracts of current decisions on mines and mining, reported from May to August, 1917, by J. W. Thompson. 1917. 111 pp.

TECHNICAL PAPER 138. Suggested safety rules for installing and using electrical equipment in bituminous coal mines, by H. H. Clark and C. M. Means. 1916. 36 pp.

PUBLICATIONS THAT MAY BE OBTAINED ONLY THROUGH THE SUPERINTENDENT OF DOCUMENTS.

BULLETIN 61. Abstracts of current decisions on mines and mining, October, 1912, to March, 1913, by J. W. Thompson. 1913. 82 pp. 10 cents.

BULLETIN 65. Oil and gas wells through workable coal beds; papers and discussions, by G. S. Rice, O. P. Hood, and others. 1913. 101 pp., 1 pl., 11 figs. 10 cents.

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BULLETIN 94. United States mining statutes annotated, by J. W. Thompson. 1915. 1772 pp. In two parts, not sold separately. Cloth, \$2.50 per set; paper \$2.

BULLETIN 113. Abstracts of current decisions on mines and mining, reported from May to September, 1915, by J. W. Thompson. 1916. 124 pp. 15 cents.

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COAL MINES

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